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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Third periodic reports of States parties due in 1990

Addendum

COLOMBIA*

[13 February 1991]

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* For the initial report submitted by the Government of Colombia, see CCPR/C/1/Add.50; for its consideration by the Committee, see CCPR/C/SR.221-223 and SR.226 and the Official Records of the General Assembly, Thirty-fifth session, Supplement No. 40 (A/35/40), paras. 239-274. For the second periodic report of Colombia, see CCPR/C/37/Add.6/Rev.1; for its consideration by the Committee, see CCPR/C/SR.817-820 and SR.822 and the Official Records of the General Assembly, Forty-third sessin, Supplement No. 40 (A/43/40), paras. 508-546.

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FOREWORD

1. The Ministry of Foreign Affairs of Colombia is pleased to submit to the Human Rights Committee the third periodic report on the implementation of the International Covenant on Civil and Political Rights.

2. To avoid needless repetition, the Committee is requested to consult the following reports by Colombia to United Nations bodies:

Initial report of Colombia on the International Covenant on Civil and Political Rights (CCPR/C/1/Add.50);

Initial report of Colombia on the implementation of articles 10 and 12 of the International Covenant on Economic, Social and Cultural Rights (E/1986/3/Add.3);

Initial report of Colombia on the implementation of articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights (E/1982/3/Add.36);

Second periodic report of Colombia on the International Covenant on Civil and Political Rights (CCPR/C/37/Add.6);

Second periodic report of Colombia on the International Covenant on Civil and Political Rights. Addendum (CCPR/C/37/Add.6/Rev.1);

Second periodic report of Colombia to the Committee on the Elimination of Racial Discrimination, 20 November 1984 (CERD/C/112/Add.1);

Report of Colombia on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/Add.32);

Initial report of Colombia to the Committee against Torture (CAT/C/7/Add.1).

Chapter I

GENERAL INFORMATION ON THE REPUBLIC OF COLOMBIA

3. In recent years, the enforcement of human rights in Colombia and the strengthening of the institutions for their defence, promotion and protection have been fundamental aspects of government policy. Civil and political rights have been one of the Government's ongoing concerns; given the complex situation the country is experiencing, efforts have been stepped up, both to identify and punish those causing violations of fundamental rights and to prevent abuses by the authorities. The Government has sought to ensure that the defence of human rights is not considered to be the monopoly of any specific sector or invoked as the ideological inheritance of any particular political group. Protecting human rights is the responsibility of all citizens, and great efforts have been directed towards that end.

4. Given the vital importance and complexity of the human rights issue in Colombia, in 1987 the Ministry of Foreign Affairs established a special office within the Department of International Organizations and Conferences to take care of such matters. The Colombian State has been fulfilling its commitments under the international human rights instruments through a series of periodic reports on the human rights situation in Colombia and the Government's actions to deal with it, and by replying to requests from intergovernmental bodies regarding specific cases or concerns over a particular issue.

5. Special mention should be made of the establishment of the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights in 1987, which symbolized the Government's interest in giving priority to national human rights policy. Its principal task is to induce other State entities and social organizations to take on the defence of human rights. The Office of the Presidential Adviser has served as a channel of communication enabling individuals and organizations to turn to the State seeking redress of impaired rights or prevention of violations. In its relations with non-governmental organizations, the Office of the Presidential Adviser follows a policy of openness towards those bodies that wish to make a direct analysis of the situation in Colombia. In its work, the Office maintains links with institutions such as the Ministry of Foreign Affairs, the Ministry of Labour and Social Security, the Ministry of Justice, the Office of the Attorney-General of the Nation, the National Criminal Investigation Department, the Administrative Security Department (DAS) and the military and police commands.

6. In addition, in cooperation with the Ministry of Foreign Affairs, and as part of the policy of openness pursued by the Government, members of intergovernmental and non-governmental international organizations have visited the country to learn about the human rights situation there. Thus representatives of the International Labour Office, the United Nations Working Group on Enforced or Involuntary Disappearances, the Special Rapporteurs on torture and summary or arbitrary executions of the United Nations Commission on Human Rights, the Inter-American Commission on Human Rights, Amnesty International and the Andean Commission of Jurists, in particular, have visited the country in recent years. The reports prepared by those experts on

their visits, with which the Human Rights Committee is familiar, reflect the different points of view on the situation in Colombia, and all unhesitatingly recognize the national Government's clear political will to combat the various forms of violence afflicting Colombia, such as drug-related terrorism and the armed subversion which has been going on for over 30 years now and whose members use kidnapping, murder and terrorism in many cases.

7. The country has been afflicted by politically-motivated armed violence, armed violence for illicit gain and a combination of both, depending on the circumstances. Despite these conditions, it has been possible to maintain democratic institutions in Colombia. The Government acknowledges that there have been specific situations in which some State agents in isolated cases have committed human rights violations contrary to government policy. The Government has made every effort to punish those responsible within its possibilities.

8. To deal with this situation, in recent months the Government has taken some institutional measures aimed at gradually restoring to the judiciary its capacity for action. Thus the protection of court personnel, judges and judicial officials has been strengthened. At the same time, with the development of new functions in local democracy, functions of protecting local rights in the municipal sphere were assigned to the municipal attornies (Act No. 3 of 1989). In addition, Act No. 4 of 1990 reorganized and strengthened the functions of the Office of the Attorney-General of the Nation, restoring to it special judicial police functions by means of the Office of Special Investigations. The Act also invested the Office of the Government Attorney for Human Rights with the power to investigate cases of disappearance, homicide and torture.

9. In a major effort to reform the system of investigation, 190 preliminary investigation units were established at various points in the country. It should be mentioned that as part of the restructuring the Director-General of Criminal Investigation, who directs all preliminary investigation proceedings, is now appointed in Colombia by the National Investigation Council, which is made up of the President of the Supreme Court of Justice, the Attorney-General of the Nation and the Minister of Justice. The Directorate-General of Criminal Investigation recently established a National Human Rights Unit, which will coordinate human rights units in all sectional offices, to help all its agents develop a clearer awareness of this aspect and to monitor the investigatory units looking into punishable acts, in order to ensure that the investigations are conducted effectively, without abuses on the part of the forces of law and order.

10. The peace initiative put forward by the Government, is a key element of human rights policy. The initiative, which is a reflection of the Government's firm intention to achieve reconciliation with the insurgent groups, began with the institutionalization of the peace process through the establishment of the Office of the Presidential Adviser for Reconciliation, Normalization and Rehabilitation. Once the stages of détente and transition provided for in the Government's initiative were complete, the phase began of permanent incorporation of the Movimiento 19 de Abril (M-19) into the civil and institutional life of the country, after the group laid down its weapons

and was pardoned. Clear proof of the success of this process and the will of each of the parties was the M-19's participation in the nationwide presidential elections held on 27 May 1990 and in the elections for the Constituent Assembly held on 9 December. The elections showed that it was a real political force, and its decision to re-enter the national democratic process was welcomed by different sectors of Colombian society.

11. The Government has also promoted another aspect of the peace initiative, the central element of which is human rights policy. As part of this policy, the Government submitted to the Congress Protocol I Additional to the Geneva Conventions of 1949, which is currently being dealt with by the Senate.

12. The Government's instructions to all military detachments stress the need to combat the agents of violence, whether guerrillas or members of drug-trafficking gangs, with the strictest respect for human rights. One of the first measures to that end was the prohibition against the security bodies making detentions or house searches without the use of military uniforms, in order to avoid detentions without a basis in law. At the same time, the Government, through Decrees Nos. 2047 and 3030 of 1990, offered a significant reduction of sentence for anyone who had participated in paramilitary groups or been guilty of offences related to drug trafficking who gave himself up to the system of justice and confessed his acts. This measure has already had some effects (see annexes 1 and 2).

13. Among the various measures designed to change the political context of the country and attenuate the conditions that foster violence, probably the one that has had the greatest impact is the encouragement given to the constitutional reform process. Reforming the Constitution had long been an aspiration of many sectors of Colombian society and had been proposed by the guerrilla groups in the negotiations on their re-entry into civilian life. They had also stressed the fact that the reform must be carried out by a Constituent Assembly, hopefully one in which a good number of members were elected by a strictly proportional national constituency. In response to the voters' will as expressed in the elections of March and May 1990, on 24 August the Government issued a Decree convening the Constituent Assembly. The Assembly will be composed of 70 citizens elected from among a national constituency. According to a decision by the Supreme Court of Justice, the Assembly will have complete sovereignty in performing its functions and complete freedom to amend constitutional norms.

14. The process taking place represents the best opportunity for democratic reconciliation that the nation has had. For the first time for 150 years, the Constitution will emanate from a body elected directly for that sole purpose, and the electoral mechanisms adopted correct the defects and limitations that might in the past have granted the traditional machinery and political parties some advantages. Among the various groups vying for popular representation there is a clear consensus that, as the Government has proposed, the basic tasks of the Assembly should be to reorganize the system of justice and draft norms making citizens' guarantees and rights and the mechanisms enforcing them more explicit and complete and granting the individual the appropriate remedies for demanding the enforcement of their rights by the State or protecting themselves from State abuses. As part of the process of

constitutional reform, consideration has been given to the need for the Constitution to enshrine the remedies of amparo, habeas corpus and public actions as mechanisms for the protection of human rights. With this set of measures, the Government has been establishing political conditions for restoring enjoyment of individual rights in the country and strengthening the credibility of its institutions, which is an essential aspect of the process of reconstructing full legality, in that the public's lack of trust in the State's capacity has been one of the factors that have done most to worsen the situation of violence by encouraging recourse to private means for individual defence.

Chapter II

ANALYSIS OF THE ARTICLES OF THE COVENANT

Part I

Article 1, paragraph 1

15. To enable the right of self-determination to be implemented, there are legislative and political procedures in Colombia through which the people exercise this right. Article 1 of the Constitution defines the Colombian nation as a republic with a democratic system and grants the people sovereign power to determine their destiny.

16. The centralist character of the constitutional principles was expedient at the end of the last century, when it was essential to strengthen national unity after many civil wars. Notwithstanding the major reforms of 1936 and 1945, which were highly socially oriented, the historical evolution of Colombian society made it necessary for democracy to assume increasingly participatory forms.

17. Consequently, a comprehensive process of strengthening and modernizing the democratic institutions has been initiated during the past decade. Some key areas for action under this plan are the strengthening of municipal government and local democracy, the granting of political and civil guarantees to minorities, and respect for freedom of expression as a basis for the exercise of civil and political rights. In order to strengthen municipal government and local democracy, channels of dialogue were revitalized so as to involve citizens in decision-making. This was reflected in the regulations for mayoral elections by popular vote laid down in Act No. 78 of 1986 and Act No. 49 of 1987 (see annexes 3 and 4).

18. Similarly, article 6 of Legislative Act No. 1 of 1986 provides that decisions within the purview of Municipal or District Councils can be submitted to referendum when the mayor, the councillors or a specified number of citizens or communal boards so decide. Moreover, Act No. 42 of 1989 develops and regulates the referendum process, establishing procedures for calling a referendum, matters which may not be submitted to referendum, the process of voting and vote-counting, court supervision of administrative acts for calling a referendum, the majority required for a decision and the effects of that decision (see annexes 5 and 6).

19. The importance attached by the Government to involving the population in addressing the specific problems directly affecting them was demonstrated by its concern to provide appropriate instruments enabling the least advantaged groups to have an influence on the political life of the nation in order to change their status, with their needs being determined and priorities being set to meet them. To this end, the Government encouraged the establishment of the Rehabilitation Boards through Decree No. 3270 of 1986 regulating the composition, functions, meeting arrangements and leadership of these Boards, in which civic, trade-union and community organizations are represented (see annex 7). Furthermore, Decree No. 1512 of 1989 set up the Popular

Inspectorates for the National Rehabilitation Plan, which are an instrument of the Rehabilitation Boards enabling the beneficiary communities themselves to oversee and implement projects proposed under the National Rehabilitation Plan (see annex 8).

20. These Government measures were designed to increase confidence in institutions; stimulate competition between political parties as a manifestation of democratic pluralism; enhance the efficiency of institutional instruments by making them a better reflection of the popular will; establish a form of expression for non-traditional political forces; and bring the community closer to the State through the Municipal Rehabilitation Boards, whose projects have brought tangible benefits to large segments of the population, particularly in violence-affected areas.

21. Moreover, since a modern and efficient electoral system strengthens democracy, Act No. 62 of 1988 introduced a system of voting cards prepared by the National Registry and handed over to voters directly at the polling stations. This Act is designed to provide a mechanism whereby the electorate can vote more freely and without pressure (see annex 9). Act No. 6 of 1989 amended some provisions of Decree No. 2241 of 1986 (the Electoral Code); inter alia, it expanded the functions of the National Civil Registrar and provided technical. human and material resources to enable elections to be properly organized and accompanied by the necessary guarantees (see annex 10).

22. With a view to strengthening and modernizing institutions, the Government set out to revitalize the branches of government and achieve effective administration of justice. It was important to restore the efficiency of the judicial system and reassure the population that judges and courts would perform their task of protecting the constitutional and legal rights of all. Among the measures adopted to this end, the Government ensured an improvement in the system's budgetary and administrative arrangements, defence of the dignity of judges and increased protection and security for judges.

23. At the same time, judicial procedures were reformed in the various courts, a master plan for the use of data processing by the judiciary and a comprehensive plan for systematic judicial and logistic support by the Ministry of Justice were formulated, better career prospects were provided for judicial officers and the prison system was improved. In addition, the Office of the Attorney-General of the Nation was reorganized through Act No. 4 of 1990, which assigned functions to its branches and laid down other provisions calculated to strengthen this institution and enable the interests of society to be represented more effectively (see annex 11).

24. Another significant feature of the exercise of the right of self-determination through democratic and participatory means is the new process taking place in Colombia as a result of the convening of the National Constituent Assembly. This development holds out great promise for the active participation of all groups of society in defining the bases of political organization in Colombia. In a vote of 27 May 1990, the people approved the holding of the Constituent Assembly. This resulted in the issue of Decree No. 1926 of 24 August 1990 enabling the Assembly to convene. After thorough study, the Supreme Court of Justice handed down a decision on 9 October 1990 declaring Decree No. 1926 to be constitutional, bearing in mind

the will of the primary constituent, in other words the sovereign will of the people as expressed in elections. The Court stated that it is not the executive but the people, in their capacity as depositary of national sovereignty, that convene a Constituent Assembly (see annex 12).

25. The Court further ruled that the people could set a broad agenda and also adopt decisions without any restriction in order to form a true Constituent Assembly. On 9 December 1990 the 70 members of the Assembly were elected directly by the people. The Assembly will begin its work on 5 February 1991 and meet over a period of six months, during which time the reforms to the Constitution will be approved. Attached to this report is a brochure entitled "The Constituent Assembly is the way. Questions and answers on all you want to know about the Constituent Assembly" and other leaflets explaining this process to citizens and informing them how they can all participate in it genuinely and effectively (see Annex 13).

26. President César Gaviria Trujillo had this to say on the subject in his inaugural address: "We must also create new mechanisms for participation and reform such as the plebiscite, the Constituent Assembly and the referendum, so as to involve citizens in the adoption of the government decisions which most concern and affect them and expedite and speed up institutional change. We need a participatory democracy, as the people decided on 27 May."

Article 1, paragraph 2

27. The right of the people freely to dispose of their natural wealth and resources entails an obligation for the State to apply an economic democracy with social justice. During the administration of President Virgilio Barco, the economic management practised and the development model followed were based on the concept of a "social economy", which consisted of reconciling economic growth with social development in the context of a new political orientation. Growth was to perform the social function of improving the living conditions of society's poorest members. The struggle against absolute poverty required commitment by the State and a dynamic approach to public economic management, promotion of production, redirecting of public expenditure and credit, prudent macro-economic management, appropriate monetary administration and public investment geared to the marginal groups of the population.

28. Available resources were used to broaden access to basic public services, increase opportunities for generating income among the poorest members of the population and promote programmes for enhancing family life, with particular attention to children. Priority was given to four plans to promote the Government's social policy: the Plan for the Eradication of Absolute Poverty, the National Rehabilitation Plan, the Integrated Rural Development Plan and the Agrarian Social Reform. All of them were carried out on an integrated and participatory basis with the aim of strengthening democracy (see annex 14).

29. Economic strategy was entirely geared to achieving high and sustained growth rates for production and productivity, meeting demand for goods and services and guaranteeing adequate remuneration for the factors of production, especially labour. The policies pursued to achieve economic growth were: readjustment of public spending, export expansion and growth of private

investment. In order to restore Colombian products to their position in the internal market, domestic public and private purchasing capacity was exploited through an exchange policy based on deterring imports and smuggling and the maximum use of locally produced goods in public investment projects.

30. At the same time, the Government sought to tap the international market as an essential and dynamic source for national economic expansion. During President Barco's administration great efforts were also made to stimulate productive capacity, private investment and entrepreneurial activity. To this end, encouragement was given to the privatization of certain public functions, the reduction of controls and barriers to the play of market forces, the freeing of key elements in the economy such as interest rates, the adjustment of the tax system to business realities, and the restoration of return on private investment to acceptable and fair levels.

31. During the same period (1986-1990), the industrial sector was modernized in order to make Colombian manufacturing industry competitive, and State investment in infrastructure was readjusted in line with the requirements of the productive sector. In short, the Government of Colombia promoted a programme of modernization, opening up and internationalization of the economy with a view to anchoring the Colombian economy firmly in world markets.

32. The new economic policies introduced by the administration of President César Gaviria Trujillo should also be highlighted. In his inaugural address of 7 August 1990, the President emphasized the intention to continue the process of internationalizing the economy which, under the Government's proposals, meant changing the foreign investment regime, stimulating private investment, converting Proexpo into an export bank, modifying the functioning of the Foreign Trade Institute, modernizing the land transport and port system, restoring the railway network and reducing the cost of air and sea transport. The new Government proposed a policy of openness with a dynamic process supported by export growth designed to ensure the Colombian economy its appropriate place in the world market. This process of internationalizing the economy entails steering Colombia's international policy towards highly active diplomacy in both economic and commercial matters.

33. On 17 October 1990, at the opening ceremony of the National Congress of FENALCO (National Federation of Merchants), the President, referring to economic policy, stated that the important thing was to "transform the economy in order to make it more responsive to the real needs of Colombians both today and in the future through a strategy of structural reform that will permit a rapid rise in production, enhance the quality of life, increase the level of employment and achieve a more equitable distribution of income, all on a permanent basis". The President added that the strategy was not designed to penalize any particular sector or sectors but to foster the restructuring of all sectors. He went on to state that "national production will not be unprotected. All necessary guarantees will be provided to protect national production from unfair competition or dumping. Preference will be given to ensuring participation by all interested sectors, but overall goals will not be sacrificed to sectoral interests." He summed up by saying: "we want an economy in which the injustices, inefficiency, inequity and sluggishness

of the past are left behind, we want work to be not a privilege but a full-fledged right, we want citizens to have a State which makes an effective contribution to their well-being rather than hampering their aspirations".

34. The new Government's efforts are already bearing fruit. This is demonstrated by the international response as reflected in two notable developments: first, the consideration shown by President Bush in a statement to the United States Congress to the preference scheme for the Andean region; and, second, the approval of technical arrangements for the establishment of a preference scheme granting Colombian exports open access to the European Economic Community (see annex 15).

Article 1, paragraph 3

35. Colombia's foreign policy and its relations with the international community are based on the inalienable principles guaranteeing civilized coexistence between countries. Respect for international law, equality of States in legal matters, the peaceful settlement of disputes, respect for pluralism, respect for sovereignty and self-determination of peoples, non-intervention, rejection of the use of force in international conflicts and condemnation of the arms race, racial discrimination and colonialism are the bases of Colombia's foreign policy.

36. These principles have guided Colombia's actions in the Security Council, in which it participated as a member during the period January 1989-December 1990. Its principles are reflected, inter alia, in the adoption of resolutions 629, 632, 640 and 643 (1989) on the situation in Namibia and resolution 658 (1990) on the question of Western Sahara. The relevant part of President Gaviria's inaugural address states: "We will maintain this policy and uphold the essential principles of peaceful coexistence, self-determination of peoples, non-interference in the internal affairs of other States, instruments for the peaceful settlement of disputes and political pluralism in our continent."

Part II

Article 2

37. The International Covenant on Civil and Political Rights was incorporated into Colombian law by Act No. 74 of 1968 and came into force for Colombia on 23 March 1976. This report endeavours to show the Government's intent and commitment to respect and ensure observance of the rights set out in the Covenant, without any discrimination. In this connection, and with reference to the article in question, the Human Rights Committee is requested to consult the fourth periodic report of the Government of Colombia under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted in October 1988 (see annex 16).

38. With a view to enforcing Colombian legislation and bringing constitutional procedures more into line with the terms of the Covenant, the Government convened the National Constituent Assembly, the objectives and aims of which have already been explained. However, it may also be mentioned that the preparatory committees and subcommittees set up to receive and discuss

proposals from the people, and specifically Committee four, dealt with the following human rights matters: right to education, and fostering of culture, science and technology; right to work and social rights; freedom of information and the media; right to privacy and other civil rights; rights relating to the family; equality and multi-ethnic society; right to life, physical integrity and other rights; machinery for the protection of human rights; collective rights and the environment; freedom of assembly, movement, thought, expression and conscience; recreation and sport.

39. Abundant legislation has emerged in recent years to reinforce the rights set out in the Covenant, for each of the topics covered by each article, and it will be described in the course of this report. The right of petition or the lodging of an appeal against a violation, as was stated in the previous report (CCPR/C/37/Add.6/Rev.1), is embodied in article 45 of the Constitution, and may be exercised by all individuals without exception (see annex 17).

40. There are bodies to which the victims of the violations of any right may resort and legal remedies such as complaints and claims to the competent authorities which are available to the individual in every case. The government bodies which receive the complaints or apeals in respect of human rights violations deal with and develop the possibilities of legal recourse and comply with such decisions as have been deemed appropriate in each case. These bodies include the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights, the Office of the Attorney General of the Nation, the National Criminal Investigation Department and all the magistrates of the judiciary, the Council of State and the Supreme Court of Justice.

41. All complaints are dealt with, including any relating to acts which may have been committed by persons in the course of their official duties. The Colombian Government pays particular attention to the conduct of its officials, including the members of the military and the police. Accordingly a special Government Attorney exists for each of these two institutions. The details of military and police personnel discharged for misconduct or convicted in 1989 are as follows:

Military and police personnel discharged for misconduct or convicted

CATEGORIES	ARMED FORCES	POLICE	TOTAL
Officers	14	45	59
Non-commissioned officers	169	60	229
Soldiers/constables	none	790	790
Civilians	none	8	8
Total	183	903	1 086

Military and police personnel prosecuted and subject to the ordinary system of justice

CATEGORIES	ARMED FORCES	POLICE	TOTAL
Officers	14	12	26
Non-commissioned officers	28	14	42
Soldiers/constables	39	139	178
Civilians	4	none	4
Total	85	165	250

42. The implementation of the Covenant in Colombian territory also depends on the dissemination of civil and political rights in order to inform individuals and the administrative and judicial authorities of these rights and acquaint them with the obligations assumed by the State in ratifying the Covenant. The work of educating the nation being carried out by the Office of the Presidential Adviser for Human rights is based on the promoting of respect for life and human dignity to guarantee of the effectiveness of any exercise of authority and any democratic project, teaching the individual about the machinery which will help him to defend his basic rights and encouraging freedom of expression and respect for the ideas of others. This teaching has also been extended to government officials, in order to teach them to respect the rights of individuals at all levels: civil, political, social, economic and cultural.

43. The work of education in human rights in Colombia involves a social process to be promoted and constructed over the medium and long term. It comprises various phases which accord with the situation in Colombia: the legitimation of the topic, consciousness-raising to encourage personal and institutional receptiveness to these questions and commitment to constructing independent alternatives and processes in human rights, both on a personal and an institutional basis. The entire process requires the building of a society which respects differences. The work of consciousness-raising stems from persons interested in the topic; building a culture of respect means stating the current responsibility of men and women in the preparation of a new social covenant. The struggle is for a society which tolerates contradictions instead of suppressing them, and makes a major effort to progress towards solving questions of authoritarianism, discrimination and intolerance.

44. The programmes for the year 1989 alone and the first half of 1990 include the following:

Programme to promote the human rights of children and young people

Support for the draft Convention on the Rights of the Child submitted by UNICEF to the United Nations General Assembly.

Establishment of the Inter-Agency Group on the Rights of the Child.

Preparation of a brochure on "Human rights, reflection and action No. 2: The rights of the child", and a poster together with UNICEF, the Colombian Federation of Educators (FECODE) and the District Association of Educators.

Printing of 190,000 copies of the brochure in association with the newspaper El Mundo and with contributions from the Office of the President of the Republic.

Participation by two leading members of the teaching profession in the annual teachers' training course of the Centre for Human Rights in Geneva, on the rights of the child.

Actions and input through contributing ideas so that the Minors' Code will reflect the philosophy and legal principles of the draft Convention on the Rights of the Child, budgeted for by UNICEF or the United Nations General Assembly.

Training of 1,000 officials from the Ministry of National Education in the human rights of children.

Training of 250 principals of secondary education institutions in Colombia.

Training of 60 departmental coordinators for recreation and prevention programmes (Bogotá).

Workshop with 50 directors of micro-centres for the self-management training of school teachers from 20 territorial divisions of Colombia (Cartagena).

Conference/workshop for 250 directors of kindergartens and non-governmental organizations (Medellín).

Conference/workshop for 300 leading Colombian educators in a programme for the training of teachers with a view to making basic primary education universal.

Programme with young people: Youth Congress of Bogotá (400 participants), workshop on the human rights of young people.

Preparation of teaching material: video on "The rights of boys and girls"; video on "Young people and human rights"; brochure for the presenter; six television spots on the human rights of children.

In association with UNICEF, production of 1,500 videos with accompanying brochures for 110 Colombian municipalities.

Regional measures along with governors, mayors, municipal attorneys and non-governmental organizations for the defence, protection and promotion of the human rights of children and young people.

Seminar with 250 lawyers, magistrates, judges and officials of the Colombian Family Welfare Institute (ICBF) at Antioquia on the human rights of children.

Work of promoting human rights and technical training in human rights with workers' organizations

Arrangements with the United Workers' Federation (CUT) to give a seminar with 250 workers' leaders and activists.

Conference/workshop for 70 leaders of CUT, and the Research and Training Centre of 12 Colombian departments.

Regional conferences (Pereira, Cali, Bogotá) with union education secretaries (Meta, Caquetá, Cundinamarca, Risaralda, Caldas, Quindío), 100 participants.

Conferences/seminars with trade union leaders from four federations, FAS, UTRACUN, CTG, for leading officials of approximately 30 trade unions.

Programme with 80 community action leaders from Cundinamarca for the dissemination of human rights.

Workshop/seminar on human rights of women in Bogotá, Medellín and Cali for 150 trade union leaders.

Human rights education programme in the formal education system

Design of the programme to structure human rights education within the school curriculum.

Design of programmes with social research organizations, teachers' unions and research centres to assist in drafting and promoting human rights education programmes.

Seminar on consciousness-raising with a view to a human rights education with 400 directors of public and private schools in Cundinamarca.

Workshop/seminar with 60 participants in the CEP (Experimental Pilot Centres) of the Ministry of National Education from various regions in Colombia who committed themselves to an active share in the human rights education programme sponsored by the Office of the Presidential Adviser.

Workshop with the Colombian Theatre Corporation on the "right to culture and the culture of human rights". Twelve directors and 40 members of various theatre groups from working-class districts in Bogotá took part.

Supervision and follow-up of the Agreement between the Colombian Theatre Corporation and the office of the Presidential Adviser to create 12 plays on human rights using young actors.

Agreement with the Ministry of Education for preparing a human rights education programme through the schools for a two-year period

45. As part of this programme workshops/seminars for trainers have been held; their objectives are: (a) To transmit basic knowledge about philosophical, historical, political and legal aspects of human rights; (b) To carry out reflection and analysis for the implementation of the programme in every educational centre; (c) To make commitments to active human rights education.

- First national workshop/seminar on human rights education with the participation of the Ministry of Education, non-governmental organizations, the teaching profession, researchers and experts in the matter, and 80 workshop participants from all over the country.

- In the first half of 1990 seven workshops were held in the cities of Bucaramanga, Pamplona, Cali and Bogotá, with a total of 650 trainers.

- A project is in progress at the National University to design manuals to be used as teaching material for the introduction of the topic of human rights in the various university syllabuses.

- Meetings with the group of education faculties of the centre and south-west with the participation of 60 deans and professors. The importance of introducing the topic of human rights in teacher-training institutions was stressed.

- Various educational activities have taken place at the trade union level, including a workshop/seminar for 100 human rights promoters, held in Bogotá, in association with the four workers' federation; the workshop/seminar with 30 leaders from Valle and the coffee-producing region held in Buga, and the workshop held in Cartagena with 30 women trade union leaders from the Atlantic coast; lastly, the first workshop/seminar on the topic "The rights of the workers are also human rights", held in Cachipay (Cundinamarca), and attended by 80 trade unionists of the workers' federations from all parts of the country and trade union schools.

- The month of July 1990 saw the visit of Dr. Abraham Maguendzo, United Nations consultant and expert in human rights education, who was invited by the Office of the Presidential Adviser for Human Rights and met a total of 300 persons in six different institutions: Ministry of Education, Federation of Educators, education faculties, non-governmental organizations, Inter-Agency Group on the Rights of the Child, Office of the Presidential Adviser for Human Rights, officials of the Valle Education Secretariat and some 30 educators.

- Support and advice to the planning team of the Valle Education Secretariat in order to make the topic of human rights an institutional part of its administrative and educational practice. The result: Ordinances Nos. 10 of 1988 and 2 of 1989.

- Measures taken and agreement reached with the Inter-American Institute of Human Rights to implement to the full the human rights education project in the south-west and the coffee-growing area of Colombia.

- Meeting with leaders of the Association of Primary-School Teachers of Antioquia and rectors, directors and teachers of the north-east and north-west districts of Medellín in order to promote a human rights education project.

- Workshop/seminar on human rights with delegates from the 15 regional associations of SENA in the country, attended by 100 employees.

- National Human Rights week with SENA in all the country's regional associations, from 30 July to 3 August.

- Workshop/seminar with 85 rectors, directors and teachers of official colleges and schools in the north-east and north-west districts of Medellín to programme human rights education work aid.

- Organization of a workshop/seminar in Medellín on human rights education with 100 teachers from the south-east district for the last week of August.

Promotion and dissemination

46. In order to promote and foster education of human rights, various activities have been undertaken through the communications media and through direct events designed to achieve a broad dissemination of the doctrinal, philosophical, legal and practical significance of human rights.

(a) Principal events

47. The office of the Presidential Adviser for Human Rights has taken part in many national and regional events on the broad theme of human rights, almost always as organizer but sometimes as a guest. The following are some of the most important of them:

- Academic meeting for democracy and human rights. Bogotá, December 1987.

- Meeting on Human rights with mayoral candidates. Bogotá, February 1988.

- Seminar on human rights organized by the Nueva Granada Military University, Bogotá, April 1988.

- Meeting entitled "Attorneys/and human rights". Cali, April 1988.

- The first National Human Rights Week in the educational system. 23-27 May 1988.

- Inter-institutional programme of prison visits, with the participation of the Office of the Government Attorney for Human Rights, the Ministry of Justice and the United Nations. National coverage, June 1988 up to present date.

- Meeting of elected mayors and attorneys in Antioquia, convened by the Office of the Attorney-General of the Nation. Medellín, June 1988.

- Meeting on "Human Rights and the Prisoner in Colombia". Bogotá, August 1988

- Meeting on "Combating impunity: progress and difficulties". Bogotá, September 1988.

- Commemoration of National Human Rights Day. Cartagena, Bogotá, 9 September 1988.

- Seminar on international human rights instruments for judicial officers. Bogotá, October 1988.

- Meeting for Peace convened by the Javeriana University. Bogotá, October 1988.

- UNESCO Andean Parliament Seminar entitled "Contributions in the Field of human rights", Caracas, October 1988.

- Antioquia Human Rights Meeting, Medellín, October 1988.

- Commemoration of the fortieth anniversary of the Universal Declaration of Human Rights. Bogotá, December 1988.

- Meeting on "Constitutional Reform and Human Rights". Bogotá, February 1989.

- Nation-wide competition entitled "Human Rights in Colombia and the French Revolution" for students in primary, secondary and higher education. February-June 1989.

- Seminar/workshop for training members of the Technical Corps of the Judicial Police. Bogotá, October 1989.

- National meeting on "Human Rights and a New Penitentiary Model". Bogotá, September 1989.

- National symposium on the rights of the sick. Bogotá, November 1989.

- Campaign on the theme "Human rights are everyone's responsibility". Bogotá, January 1990.

- National seminar/workshop entitled "Towards the development of a methodology for teaching human rights". Bogotá, June 1990.

- Seminar on international human rights law and Colombian domestic law, Bogotá, July 1990.

- National seminar/workshop entitled "Workers' rights are also human rights". Cachipay (Cundinamarca), July 1990.

- Second National Human Rights Week in the educational system. 30 July - 3 August 1990.

(b) Publications

48. The Office of the Presidential Adviser had put together a series of publications including primers for mass distribution, posters, folders, pamphlets, videos, information bulletins on overall management, records of events and books containing speeches and statements by the Presidential Adviser. The main items are:

- Primer: Reflection and Action No. 1. Guide for the Educator.

- For the Application of Human Rights. In the collection "Office of the President of the Republic". 3 vols. September 1988.

- Collection of four national postage stamps commemorating Human Rights Day: the right to life, the right to elect, the right to communication, and the right to freedom of association.

- Combating impunity. Records of the meeting of September 1988. Edition financed by the Naumann Foundation.

- The Attorney's Guide. Three editions, enlarged and corrected.

- Reply to Amnesty International entitled "Combating impunity: a democratic undertaking". June 1988. English, French, German and Spanish versions.

- Annual Labour Report. January 1989.

- Poster on the topic "The rights of the child are the first human rights".

- Primer: Reflection and Action No. 2. The rights of the child.

- Poster on the topic "Human rights are everyone's responsibility".

- Information Bulletin Nos. 1-11.

- The ombudsman and human rights (The municipal attorney). Bogotá, June 1990.

- Reply to Amnesty International entitled "The application of human rights: a commitment of the Colombian Government". January 1990, English, French and Spanish versions.

- Pamphlet entitled "Strengthening the offices of municipal attorneys and human rights".

- Folder entitled "How can we enforce human rights?".

- Elements of a human rights policy. Compendium of speeches, lectures and interviews by Dr. Emilio Aljure Nasser, Bogotá, July 1990.

(c) Radio and television programmes

49. Until September 1988 the Office of the Presidential Adviser broadcast a weekly programme entitled "Human Rights" over the Sutatenza chain, in time accorded by the Ministry of National Education. From October 1988 up to the present date, this programme publicizing the activities of the Office and the content of human rights instruments has been broadcast over the National Radio Network twice a week. Well known are the messages broadcast over television, either in the form of periodic spots or longer programmes, which the Office has managed to transmit over both national and regional channels.

50. It has also been an ongoing concern of the Armed Forces to give instruction at the different levels of command on how human rights should be respected. In this context, human rights have been publicized through:

- Pamphlets intended for troops, containing instructions and recommendations on how to treat civilians;

- Pamphlets containing the Universal Declaration of Human Rights;

- Documents on human dignity and human rights;

- A pamphlet entitled "50 questions and answers on human rights and United Nations action to promote them";

- Training standards for officer-cadets and for students at the training schools for non-commissioned officers;

- Circular No. 002149-MDPD-VJ-789 of 7 December 1983 from the Office of the Attorney-General setting standards for judicial vigilance to ensure that military justice is appropriately, fairly and efficiently administered and applies the same standards when examining the conduct of public servants and ordinary citizens in the proper performance of their duties;

- Meetings, lectures and seminars on human rights, with the participation of specialist lecturers, for military personnel of different ranks.

51. A plan is also being put forward for the national police. It incorporates the rights of citizens in the training programme for 600 officers at Bogotá and Medellín.

Article 3

52. The main purpose of this article is to prevent discrimination on the grounds of sex. In this connection, an effort is being made in Colombia to achieve equality between men and women in the enjoyment of human rights; this equality is maintained through legislative measures to protect women and by affirmative action to guarantee the real enjoyment of their rights. In this section an account will be given of these measures and of the role which women play in practice in Colombian life.

53. The Convention on the Elimination of All Forms of Discrimination against Women was approved by Act No. 51 of 1981 and entered into force for Colombia on 18 February 1982. Likewise, the Convention on the Political Rights of Women was adopted by Act No. 35 of 1986, entering into force on 3 November 1986.

54. The legal rules establishing the equality of rights between men and women can be consulted in the report submitted in 1985 to the United Nations Committee on the Elimination of Discrimination against Women and in the supplementary report submitted to the Committee on 6 April 1987. A further report on the subject is being prepared by the National Government and will be submitted in the next few days. Nevertheless, mention should be made of the relevant legislation on this subject, such as Act No. 2820 of 1971, under which equal rights and obligations are established for women and men, with the amendments introduced by Decree No. 772 of 1975.

55. There is also Decree No. 1398 of 3 July 1990 giving effect to Act No. 51 of 1981, which adopted the United Nations Convention on the Elimination of All Forms of Discrimination against Women. This decree deals with, inter alia, the equality of rights between men and women and with non-discrimination in the various areas of life in society; it also establishes a coordination and control committee to ensure compliance with the provisions of the Convention set forth in the Act (see annex 18).

56. Although for many years the historical and sociological context of our society assigned a specific role to women, placing them at a disadvantage in relation to men and in a subordinate position, it is clear that this situation has changed substantially. Since the legislation adopted is not sufficient to provide a comprehensive guarantee for the intellectual and personal development of women and for the defence of all their rights, for some years now the Government has been promoting specific programmes for this purpose. In 1984, on the initiative of the Rural Social Development Unit of the Ministry of Agriculture, CONPES approved a policy for peasant women designed to modify their economic and social circumstances, to improve efficiency in productive work, to increase the supply of food, and to enhance the quality of life of peasant women and their families.

57. As a result of this policy, the State, through ICA, INCORA, CAJA AGRARIA, DRI, CORFAS and other institutions, supported projects in the rural sector. The latter incorporate women in activities permitting them to have an income and better nutrition for themselves and their families. The bodies responsible for training and organization under the policy for peasant women have also contributed to the establishment, consolidation and development of

the National Association of Indigenous and Peasant Women (ANMUCIC). In addition to governmental organizations, non-governmental organizations are active in the country; their activities tend to be concentrated in the rural areas and are aimed at supporting the specific claims of women.

58. In Colombia, as in other third world countries, women are faced with real problems such as generalized conflicts in some areas, guerrilla warfare, drug trafficking, difficult financial circumstances and other factors that also affect men and children. In the last few decades, women have increased their level of schooling, reduced their fertility rate and in many cases exchanged their rural environment for an urban environment. There has been an increase in their participation in the labour market and in their presence in community life at the economic, social, political and cultural levels.

59. Especially under the Government of President Belisario Betancur (1982-1986), specific programmes to promote citizens' participation as a basic element in enhancing the quality of life began to be given effect under the four-year development plans. The last two development plans incorporated reconciliation and rehabilitation programmes. The development plan implemented by the Government of President Virgilio Barco (1986-1990) included programmes which helped citizens to become involved in solving their community problems through arrangements for community political participation. This constituted a considerable step forward in solving the problems encountered in development.

60. Another outstanding feature of the programmes undertaken in this period was the signing of an agreement in 1989 between the Colombian Social Welfare Institute and SENA for the training of 46,000 community mothers and the creation of 49,784 welfare homes at a cost of 76,200 million pesos so as to provide, with community participation, protection for old people, women and children. There was also the National Plan for Child Survival and Development (Supervivir), under which the Ministry of Public Health provided information and education to more than one million families and more than 3,000 mothers were trained to prevent fatal diseases in children.

61. The present Government's intentions in this field were reflected in the inaugural address by President César Gaviria, in which he set out the Government's priorities: "Young people, women still needing special government support to obtain real equality of rights, and the family, which must be recovered for peace, will receive from my Government special coordinated attention directed by a Presidential Adviser".

62. To give effect to this intention, Decree No. 1878 of 17 August 1990 established the Office of the Presidential Adviser for Young People, Women and the Family, assigning to it, inter alia, the following basic functions (see annex 19):

- advising the President of the Republic on the elaboration, formulation, determination and evaluation of National Government policies in matters relating to the protection of young people, women and the family;

- supervising the implementation and development of plans, programmes and projects directly related to the objectives of the Office and drawing up guidelines and proposing the policies needed for the plans, programmes and projects to be implemented at all levels of the State;

- examining proposals for plans, programmes and projects with governmental and non-governmental bodies with a view to securing the proper implementation of policies relating to these areas;

- coordinating and harmonizing with governmental and non-governmental bodies the appropriate mechanisms for the development of plans of action and the implementation of policies through the competent agencies;

- following up existing initiatives and policies relating to the areas covered by the Office;

- offering advice on how to identify, negotiate and obtain international funding for these areas;

- serving as governmental spokesman and interlocutor in these areas when the Presidency of the Republic considers it necessary;

- compiling the necessary information, preparing studies and background documents to support decision-making on these subjects by the National Government, when necessary;

- advising the President of the Republic in the discussion, design and development of plans, programmes and projects relating to the areas covered by the Office, endeavouring for that purpose to strengthen the arrangements for citizens' participation;

- presenting the Government's policy and plans of action in the areas covered by the Office at meetings to be determined by the Presidency of the Republic;

- promoting strategies for the dissemination and furtherance of the activities and plans of action of the Government and the Office in this area;

- supporting the formulation and implementation of general social development policies when the Presidency of the Republic so requests;

- cooperating with the General Secretariat of the Presidency of the Republic, at the request of the President of the Republic, in coordinating relations between the Presidency of the Republic, the ministries, administrative departments, public establishments and other organs of the administration, where relevant.

63. As from the date on which the decree was issued, the Office of the Presidential Adviser began fully to carry out its legal mandate in this matter, in close cooperation with the Office of the First Lady of the Nation, engaging in administrative and budgetary procedures to further its activities

in the following areas: training, employment, income and funding systems; legal protection and assistance; education, recreation and culture; health, nutrition and the environment; organization and participation; prevention and rehabilitation; and infrastructure.

64. As far as the immigration laws are concerned, Colombian legislation does not distinguish between the sexes and Colombian women are not adversely affected if they marry a foreigner. On the contrary, greater facilities are given to the spouse of a Colombian national for obtaining a residence visa and for permission to practise his profession within the country. For Decrees Nos. 1000 and 2000 containing provisions for the issue of visas and the control of foreigners, see annexes 20 and 21.

65. Finally, in recent years women have played an outstanding role in filling important public offices, to which they can have access by meeting the relevant educational requirements, there being no distinction between men and women. The participation of women in all fields of national life is reflected by their entry into the Armed Forces and the National Police. The following statistics are given in this connection:

National Police	
Officers	
On patrol	35
Otherwise on duty	35
Non-commissioned officers	
On patrol	227
Otherwise on duty	2
Constables	1,314
Total	1,613
Armed Forces	
Officers	
Lieutenant-Colonel	1
Major	51
Captain	71
Lieutenant	54
Non-commissioned officers	
Sergeant	48
Corporal	114
Lance-corporal	165
Total	504
Civilians	4,925

Article 4

66. In the course of its history, Colombia has confronted the most complex sources of violence. In the last century, it witnessed the birth and development within its borders of a number of fratricidal struggles, in other words, continuous civil wars that laid waste to the country, originating in particular from conflicting ideas on the political organization of the State. Another great wave of violence was unleashed in the late 1940s and early 1950s, in contrast to the relative calm experienced in Colombia at the beginning of this century. The clash between the traditional political parties generated a period of violence, which cost the nation many lives. Subsequently, a number of subversive groups emerged, reflecting the international context, in which attempts were being made to impose ideologies by force. Drug trafficking also emerged as a destabilizing factor in national life, thanks to its huge economic power. The advent and strengthening of this complex disruptive factor took place in the late 1960s and early 1970s. While this was going on, the Colombian State was confronting and trying to solve the most diverse social problems besetting marginalized sectors of the population: unemployment, lack of services, crime, poverty, etc.

67. At the present time in Colombian society there are two main sources of violence: guerrilla warfare and drug trafficking. Apart from those which have endorsed or are endorsing the peace process initiated by the Government, the guerrilla movements do not have the support of national public opinion since they have made abduction, extortion and terrorism their chief activities. As for drug trafficking, its economic power and international dimensions are well known, and so the struggle to eradicate it is an arduous one. It is also well known that most of the paramilitary groups and hired killers who engage in criminal activities do so with the protection and sponsorship of the principal groups of drug traffickers.

68. During the 1980s, when the Colombian State confronted these obscure groups with the full vigour of the law, the attacks on the defenceless public, senior national officials and the most prominent national leaders intensified. It will be recalled that attacks were made on judges, mayors, magistrates, governors, counsellors, ministers, public prosecutors and presidential candidates, while soldiers, policemen and innocent civilians were also killed.

69. Consequently, in the face of an extremely difficult situation, emergency measures were resorted to in the context of the state of siege, for which provision is made in article 121 of the Constitution. The state of siege in Colombia is a constitutional measure to which recourse is had for the purposes of the restoration of law and order, and is subject to strict controls by the Supreme Court of Justice and the National Congress. It should be made quite clear that the powers conferred in no circumstances extend to the suspension of the Constitution, since the state of siege is established with the intention of safeguarding the Constitution. The Colombian Constitution remains in force during the state of siege, which is a special regime, established by our Constitution, and not a de facto situation. The action of the Government is controlled and does not give rise to arbitrary measures, since the decisions taken must be oriented exclusively towards the restoration of law and order. Similarly, the Constitution permits the suspension only of

laws incompatible with the state of siege, and not of all ordinary legislation. Furthermore, the Government does not replace the ordinary legislature (Congress) in the legislative function, since this branch continues to operate during the state of siege.

70. In Colombia, even though the state of siege may have been in force, the life, liberty and other legal attributes of the individual have always been guaranteed. Only the rights of others, the prevailing moral standards and the common good can restrict public freedoms and make them conditional. Colombia is a democratic country in which the Government's clearly-defined policy has been oriented towards respect for, and guarantees of, the right to life, the prohibition of torture, slavery and bondage, the prohibition of imprisonment for debt, the prohibition of the retroactive application of unfavourable criminal legislation, the right to recognition of the legal personality of the individual and the right to religious freedom. Not even under the special regime of the state of siege have these fundamental rights been restricted. The Government of Colombia has always taken the view that the state of siege must be put into effect with absolute moral and legal responsibility.

71. The state of siege currently in force in Colombia was declared through Legislative Decree No. 1038 of 1 May 1984. The grounds for the promulgation of the Decree were: the constant attacks on villages by armed groups, including those on the municipality of Acevedo in the Department of Huila, Corinto in the Department of Cauca, Sucre and Jordán Bajo in the Department of Santander, Giraldo in the Department of Antioquia, and Miraflores, in the Comisaría of Guaviare; the terrorist acts in the cities of Bogotá, Medellín and Cali, which destroyed numerous buses; and the assassination of Rodrigo Lara Bonilla, the Minister of Justice. This situation of insecurity has continued in Colombia through the repetition of genocidal and other attacks on the established institutions and the civilian population.

72. Briefly, the powers wielded by the President of the Republic during the state of siege include the following:

(a) Ordinary peacetime police powers;

(b) The power to order or authorize expropriations or the temporary occupation of buildings for the purposes of the establishment of public order, with prior or subsequent compensation, or as an extraordinary contribution for the same purposes (Constitution, art. 35);

(c) The power to control the press, through prior censorship, in accordance with article 42 of the Constitution;

(d) The power to confer cumulative political, civil, judicial and military functions on organs and officials, under the provisions of article 61 of the Constitution; and

(e) The power to suspend such laws as he may consider to be incompatible with the state of siege.

73. Apart from the exceptions specified, there is no suspension of the guarantees established in our Constitution. In other words, the protection of life and physical integrity, the prohibition of any form of slavery, the prohibition of any limitation of freedom due to debts of a contractual nature, respect for due legal process, freedom of thought, the principle of legality of offences and penalties, and the principle of retroactivity of the most favourable criminal law survive intact, even when the state of siege is in force throughout the country. These principles are established in title III of the Colombian Constitution. It may fairly be said that the state of siege is not a repressive institution in Colombia. On the contrary, thanks to this provision of the Constitution, the Government has been able to enact a certain amount of social legislation designed to tackle and overcome the crisis in Colombian society.

74. The National Government takes the view that one means of solving the problem of violence is through the rational use of the powers conferred under the state of siege. Consequently, these powers have been used in an innovative manner, not to limit public freedoms, but to promote reconciliation and strengthen justice in the face of the various forms of terrorism afflicting the State.

75. By way of example, we would note that, on the basis of the powers conferred under the state of siege, the National Government issued Decree No. 1926 of 1990 convening elections to the National Constituent Assembly. These were held on 9 December 1990 and resulted in the popular election of 70 Colombians from the most diverse ideological tendencies and social groups, so diverse in fact that the list headed by the former guerrilla Antonio Navarro Wolf won the greatest number of votes. The Government's aim in issuing Decree No. 1926 was to open up greater democratic opportunities for all citizens, thus strengthening genuine participatory democracy; it was also its wish that a Constitution should be established embodying more modern institutions commensurate with the needs and well-being of the Colombian nation. The National Constituent Assembly will sit from 5 February until 4 July 1991, as already stated at the beginning of this report.

76. Similarly, on the basis of the powers conferred under the state of siege, Decrees Nos. 2047, 2147, 2372 and 3030 of 1990 were also issued with the aim of permitting the reintegration into society of offenders who wish to avail themselves of sovereign measures by the National Government. Decree No. 2047 provides for reductions in penalties in the event of confession and collaboration with the authorities, in order that persons who have committed an offence and are known to the public-order and specialized judges may voluntarily appear before the judge, confess their offences and report assets originating from punishable acts. Decree No. 2147 supplements the above-mentioned decree by providing for the participation of the Government Attorney for Human Rights in order that he may ensure full respect for the rights of defendants. Decree No. 2372 consolidates the two previous decrees by clarifying the procedure to be followed in the event of surrender and confession by any person who has committed an offence relating to drug trafficking or terrorism.

77. Lastly, the Government has issued Decree No. 2790 of 1990, which will come into force on 16 January 1991, if it passes the constitutionality review by the Supreme Court of Justice, known as the Statute for the Defence of Justice and designed to strengthen judicial action against criminal and violent organizations (drug terrorists, guerrillas, drug traffickers, etc.). This Decree reorganizes public-order jurisdiction, establishing that the public-order judge shall be in charge of the investigation. This judicial investigation in the area of public order will be initiated by a Judicial Police unit of the Administrative Security Department (DAS) or by the Judicial Police itself. The head of this unit must immediately give written notification not later than in the first hour of the following working day to the respective Directorate of Public Order in order that the Director may appoint the public-order examining magistrate to supervise the investigation. In other words, public-order examining magistrates are responsible for supervision of the preliminary inquiry and conduct of pre-trial proceedings. The gathering of evidence will be undertaken by the Judicial Police, under the control of the competent judge. The Judicial Police have technical personnel with the highest possible qualifications in planimetry, forensic medicine, toxicology, finger-printing, etc. To sum up, the objective of this Decree is to promote the prompt administration of justice and the protection of the lives of judges, who have repeatedly fallen victim to organized criminal groups.

78. It is worth repeating that each of the decrees issued by the President of the Republic has respected the fundamental rights and guarantees of all Colombians or other residents in the national territory. With regard to the controls on the decrees issued on the basis of state-of-siege powers, the most important is that of the Supreme Court of Justice, the highest organ in the judicial branch of public authority. In April 1955, this judicial organ established the basic constitutional provisions which were not affected by the declaration of the state of siege. The Court stated: "There are provisions of the Constitution which, having by their nature no repercussions on public order, remain in effect at all times, as personal and social guarantees. These articles include, for example: article 22, which stipulates that there shall be no slaves in Colombia; article 23, which prohibits detention, imprisonment or arrest for debts; article 25, under which no one is obliged to give evidence against himself; article 26, which provides that no one may be tried except in accordance with pre-existing laws; article 30, which guarantees private property and other justly acquired rights; article 39, relating to free choice of profession or occupation; article 41, which proclaims freedom of education; and article 53, which guarantees freedom of conscience." The Court is empowered by articles 121 and 214 of the Constitution to analyse the constitutionality of all decrees issued on the basis of state-of-siege powers; it may declare such decrees unconstitutional and hence rescind them. In this case, the Court acts in accordance with its obligatory constitutional function of guardian of the institutions.

79. State-of-siege decrees must be transmitted by the Government to the Supreme Court of Justice on the day following that on which they are issued. If the Government does not do so, the Court may review them ex officio and for this purpose it has binding time-limits; failure to comply with these limits renders the responsible judges liable to dismissal, which will be ordered by the Disciplinary Tribunal. The Court's decision on the above-mentioned

decrees has effects erga omnes and there is no type of recourse against it. It should be stated that the Supreme Court of Justice is the highest judicial organ, totally independent of the National Government. The state of siege is in force in Colombia at this time only with the firm intention of bringing about complete harmony within the community and as a mechanism for achieving public well-being and law and order.

80. We wish to make the following observations in order to make the nature and functioning of this constitutional provision absolutely clear.

Declaration of a state of siege

It falls within the Government's competence to proclaim that public order has been disturbed and declare a state of siege in all or part of the Republic. However, such a declaration may be made only if the following conditions are fulfilled:

(a) One of the grounds laid down in the Constitution for declaring a state of siege by the Government must exist. Article 121 of the Constitution specifies two such grounds: foreign war and domestic strife. Consequently, these are the only forms of disturbance of public order for which a state of siege may be declared.

(b) The Council of State shall give its prior opinion. This is a mere formality, since the second clause of paragraph 1 of article 141 of the Constitution provides that this is not an obligation for the Government.

(c) A decree must be issued by the Government declaring that public order has been disturbed and that all or part of the Republic is under a state of siege. The decree is valid only if it bears the signatures of all the ministers.

When the ground for the declaration of a state of siege is foreign war, the Government must, in the same decree in which it declares that public order has been disturbed and that the Republic is under a state of siege, convene Congress to meet within the next ten (10) days, failing which, Congress may meet of its own accord (Constitution, art. 121, para. 6).

In exercising the powers conferred on it by virtue of a declaration of a state of siege, the Government may issue so-called legislative decrees, which have the following characteristics:

(a) They must bear the signatures of the President and all the ministers;

(b) They may not repeal laws and are confined to suspending those laws incompatible with the state of siege. However, it follows that the Government, having suspended a legal rule by means of such a decree, should have the power to issue the laws to replace that rule. Furthermore, a decision by the Court on 12 June 1945 stated that "in the case of a disturbance of public order, the decrees may create laws where none exist and suspend those laws that are incompatible with the prevailing state of abnormality. Moreover, the Government may by such special decrees do what Congress cannot do in its ordinary legislative capacity in time of peace. It

must not affect the individual and social guarantees provided for by the Statute, whereas in time of disturbance of public order, the President may limit the exercise of those rights and guarantees by decrees authorized by the ministers";

(c) These decrees cease to be in force, ipso facto, when the state of siege is lifted; and

(d) The constitutionality of legislative decrees issued under the state of siege is subject to automatic review by the Supreme Court of Justice.

Check on the exercise of the powers of the Government in a state of siege

In exercising the powers conferred on it by the Constitution as a result of a declaration of a state of siege, the Government is subject to two checks: political and judicial. In any case, in order to enable Congress to carry out a political check, if Congress is in session when the declaration of disturbance of public order and of a state of siege is made, the President must immediately transmit to it a substantiated statement of the reasons for the declaration. If Congress is not in session, the statement shall be presented to it on the first day of the regular or special session immediately following the declaration. "In no case does the existence of a state of siege prevent the normal functioning of Congress. Consequently, Congress shall meet of its own accord for regular sessions or for special sessions when it is convened by the Government" (Constitution, art. 121, para. 4).

The President and the ministers alike shall be accountable when they declare public order to be disturbed and a foreign war has not occurred, and they shall also be accountable, as shall other officials, when they commit any abuse in the exercise of the powers conferred on them under article 121 of the Constitution. In order to call them to account, Congress must institute impeachment proceedings and shall impose the appropriate penalty, depending on whether the case involves simply a breach of the Constitution or the commission of offences, for example, when the death penalty is decreed.

81. The present Government's ideas about a state of siege are to devise ways and means that will lead to grading the various states of emergency, depending on the nature of the acts that have given rise to the disturbance, and regulating the duration of the state of siege and the possibility of extending it in the light of circumstances. All this would be in keeping with standing legislation that does not depend on the temporary nature of the emergency measures and it would prevent abuses and excessive limitations prejudicial to the right to a defence and other constitutional guarantees. The Government is endeavouring to strengthen the Office of the Government Attorney for Human Rights, placing the law of nations and international humanitarian law on the same footing so as to cut down the possibilities of any kind of abuse of human rights.

82. Above all, the Government wishes to make it plain that justice will be its response to terrorism and subversion. It is working out new legal mechanisms to set the boundaries for action by its officials, maintaining a clear distinction between the methods it uses and the methods employed by criminal groups, and strengthening legal means for safeguarding fundamental

human rights. Consequently, even in extremely difficult situations, such as the present circumstances in Colombia, the Government's priority is to define official action more clearly and to strengthen the protection of human rights.

Article 5

83. As stated in previous reports, international treaties and agreements approved by Colombian law, as in the case of the International Covenant on Civil and Political Rights (Act No. 74 of 1968), are incorporated into Colombian law in accordance with Act No. 7 of 1944, when they are ratified. Once it became a part of municipal law, the International Covenant on Civil and Political Rights supplemented Colombia's rules in regard to human rights.

84. The rights set out in title III of the Constitution cannot be construed as a denial of any rights not enumerated in it. Article 5, which is now incorporated in Colombian law, obviates disregard for any right or rejection of a right not recognized in the Covenant.

Part III

Article 6

85. The death penalty does not exist in Colombia. Under the terms of article 29 of the Constitution, the legislature may not impose the death penalty in any circumstances (Legislative Act No. 3 of 1990, art. 3) (see annex 22). Colombian law characterizes the many forms of homicide as offences and also penalizes abortion and euthanasia. The penalties for these offences are set out in articles 323-345 of the Code of Penal Procedure (see annex 23).

86. To guarantee institutional order in the life of the nation and provide the greatest possible well-being for the individual, the State's authority is divided into three branches, the legislative, the executive and the judicial. Each one performs specific functions independently of the other two, but in mutual collaboration, as stipulated in article 55 of the Constitution. This independence makes for a continuing check by Congress on acts of government, and so representativeness and a democratic watch on the institutional structure are enhanced.

87. This same independence in regard to functions makes for a constant check by Congress on acts of government, something which strengthens representativeness, incorporates marginal sectors and makes for democratic checks and balances in our system. In this way, within our national institutions support is lent to the development of social and political participation by the people. Hence, State-Citizen relations are properly balanced and this places the seal of legitimacy on our institutions, something that will be strengthened with the Constituent Assembly and with the move towards a greater degree of openness, pluralism and political tolerance.

88. As a political democracy, Colombia has always aimed at consensus, so as to live in freedom, with full enjoyment of rights, respect for the law and the well-being of the public. These aims have been thwarted in the case of some people whose basic rights have been violated. To make good such situations

and avert similar ones, the Government has, as explained in the introduction to this report, set up a number of mechanisms in support of protection of the right to life and of all other human rights, such as the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights, the Office of the Presidential Adviser for National Defence and Security, the Office of the Presidential Adviser for Rehabilitation, Normalization and Reconciliation, the Office of the Presidential Adviser for Young People, Women and the Family, among others, along with the Office of the Attorney-General of the Nation, which protects the interests of State, promotes the enactment of legislation and monitors the conduct of public officials and agents of the State in order to protect persons from possible misuse of authority.

89. Persons whose rights have been affected or who have reason to believe that they will be affected in future may freely submit claims and complaints to the competent authority or any of the bodies mentioned in the previous paragraph. Decisions may be taken in regard to individuals but also to groups, since Colombia has trade unions and civic and other associations (see some comments in this regard under article 22); similarly, freedom of expression is protected by law and is supported by the Government for the purpose of strengthening democratic institutions (art. 19).

90. Article 16 of the Constitution stipulates that the authorities must protect the lives, honour and property of all persons living in Colombia and ensure that the State's social obligations are fulfilled. In discharging this obligation for the purpose of enhancing the quality of life of the individual, the Government has in recent years sponsored health, education, housing, employment and other programmes.

Health

91. The Basic Health Programme was carried out in 1986 to provide primary health care, set up medical services in the poorest communities, improve infrastructure in regard to health centres, the quality of medical care and the administrative efficiency of the National Health System. The programme reached 10 million people and fostered community participation. Health infrastructure was strengthened under Act No. 10 of 1990, whereby the National Health System was reorganized. In recent years investment in health has risen at an average annual rate of 35.5 per cent and primary care was allocated a sum of 18,669 million pesos, a considerably higher amount than was the case previously.

92. Diseases such as leishmaniasis, leprosy and tuberculosis were kept under control and attention was paid to the AIDS epidemiological emergency by means of a nationwide plan for prevention, interpersonal education, checks on blood banks and blood products, and the establishment of outpatient centres and psychological and social assistance; the amount totalled 778 million pesos.

93. Disease prevention and control programmes were established to cut down infant mortality and morbidity and an intensive educational and information campaign on disease prevention was waged under the National Plan for Child Survival and Development (Supervivir). Community participation committees

were established under Decree No. 1216 of 1989, which regulated community participation in health care. In all, 4,125 committees were established, with 70,000 participants.

94. Similarly, as far as mental health is concerned, 82,100 persons were reached under drug addiction prevention programmes, and 31 special units were set up for the treatment and rehabilitation of drug-dependent persons and alcoholics. Again, other mental health and full rehabilitation services were provided.

95. In this way, the Government, in its ongoing work to halt premature deaths from preventable causes, has aimed at the well-being of the people and has increased life expectancy. On the topic of health, President César Gaviria has said: "The health service is a responsibility of the public sector, especially in the case of low-income groups. We shall work to decentralize the health administration and secure better participation by the private sector in supplying these services and in creating community-run health centres that will draw on the experience of the Family Welfare Institute.

Environment

96. Government steps to protect the lives of the people include rules to prevent and combat environmental pollution, help conserve renewable natural resources and endeavour to reconcile technological development with the right of the individual to healthy living conditions. In this connection, Colombia has a code of environmental law, issued under Decree-Law No. 2811 of 1974.

97. Socio-ecological offences are covered in book 2, title VII, chapter 2 of the Penal Code (see annex 24). They include unlawful utilization of natural resources (PC, art. 242), unlawful occupation of parks and forestry areas (PC, art. 243), unlawful mining operations (PC, art. 244), causing diseases in fauna, forest, hydro-biological and agricultural resources (PC, art. 245), causing harm to natural resources (PC, art. 246), and environmental pollution (PC, art. 247). Similarly, article 52 of Decree No. 1333 of 1986 established that zones must be set aside in all municipalities for farming. Under article 54 of the Decree, it is prohibited to extend the built-up area of any municipality so as to incorporate first-class farming land, or areas needed for the water resource conservation, erosion control and forestry.

98. The environment is a topic being examined at the present time by the Preparatory Sub-Committees for the National Constituent Assembly, in the context of the community rights that will be incorporated into the Constitution. As an example of government interest in this very important matter, the President has said: "I wish to express our concern about a subject that is undeniably important to mankind: protection of the environment. Our forest reserves in areas such as the Amazon are the world's lungs. We shall take steps to avoid an ecological disaster with unfortunate consequences throughout the world, but we cannot, without some matching help, be asked to incur high costs to make good the harm caused by the industrialized nations, which owe an ecological debt to mankind".

Education

99. With regard to education, the Government has in recent years sought to make the Ministry of Education more effective and efficient. Act No. 24 of 1988 and Act No. 29 of 1989 were issued to this end (see annexes 25 and 26). Decentralization of the administration of teaching and other staff in education meant that the system was given a new direction and education was made more democratic. Act No. 91 of 1989 responds to the needs of teaching staff in regard to social benefits payment and medical services (see annex 27).

Employment

100. Social reforms for the well-being of the public have also included protection of the right to employment. In 1990 unemployment fell by 8.7 per cent in the major cities. In addition, an Independent Employment Promotion and Protection Programme was started to help organize workers in the informal sector and to foster the establishment of associative firms, with tax and loan benefits, and advice and training facilities. A "Small Firms Development Plan" was also implemented and the cooperative sector received technical and financial incentives.

101. The present Government considers that modernization of the economy calls for a streamlined labour system, to secure greater competitiveness among Colombian producers, promote investment and create more jobs. Accordingly, an important labour reform was carried out, involving arrangements to promote productive employment, spur business investment and improve the real conditions of the working class. The aim of the reform was "to modernize the apparatus of production, to increase growth and to ensure equitable working conditions", as stated by President César Gaviria (see annex 28).

Housing

102. Under the Plan to Combat Poverty, an urban settlements programme has responded to the right to a dignified life in the towns and cities by dealing with housing needs and supplying proper public services. Generally speaking, an attempt has been made to renovate run-down districts and relocate dwellings exposed to high material and environmental risks. The Human Settlements Programme involved an investment of more than 250,000 million pesos for 50,000 families.

103. The present Administration intends to make institutional changes in the housing sector and promote the construction of nearly half a million units in the next four years. To achieve this objective, the municipalities will provide basic services for plots of land to be assigned to low-income families. Financial assistance will be given to middle-income persons to acquire housing under the Constant Purchasing Power Unit System, under the least onerous conditions possible.

Article 7

104. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed by Colombia on 10 April 1985, adopted by Act No. 70 of 1986 and ratified on 8 December 1987. The Government of Colombia emphatically rejects the use of torture under any circumstances, because it considers it an abominable crime and an unspeakable offence against the dignity of the individual. Colombian legislation in articles 16 and 20 of the Constitution provides that it is the duty of the authorities to protect the lives of all persons residing in Colombia and establishes that public officials are answerable for exceeding their powers. The crime of torture within the national territory is characterized in article 279 of the Penal Code, which also lays down the penalties for inflicting personal injury in its second chapter, articles 331-342 (see annexes 29 and 30).

105. In compliance with article 19 of the Convention, Colombia submitted the initial report of the Government to the Committee against Torture in which it listed the legislative, administrative, judicial and other measures which it had adopted to prevent violation of the physical or mental integrity of individuals (see annex 31).

106. Regarding the problem of the violation of physical integrity by medical or scientific experiments, and especially the procedure of the replacement of human organs, tissue and cells, Act No. 9 of 1979 and its regulatory decrees govern this subject, stipulating the rights and obligations of donors, the operation of "organ banks" and the distribution of their anatomical components. Decree No. 2642 of 1980, article 19, approves the use of usable anatomical components of a cadaver "to prolong or save the lives of other individuals, or for purposes of scientific research", provided that cerebral death has been established. Article 10 of Decree No. 3 of 1982 regulates the donation of symmetrical or matching organs by living persons, for immediate transplants. There is no question that the donation of an organ can be beneficial to an individual, but the law requires that it should be subject to strict medical control and that proper justification should be given for a procedure of that nature.

Article 8

107. Article 22 of the Constitution provides that: "There shall be no slaves in Colombia. Any slave who sets foot in the territory of the Republic shall thereby be free." The practice during the time of colonization in America of enslaving the indigenous people to meet the labour shortage in the gold mines and gold-bearing rivers, or of transporting African slaves to this continent for the same purpose, has ended. Unfortunately, there has been a resurgence of slavery in our time under new guises such as forced labour, traffic in persons or the exploitation of the prostitution of others or child labour.

108. In the first place, in order to protect the dignity and freedom of the individual who engages in any form of work, article 39 of the Constitution protects the freedom to choose a profession or occupation. There are other provisions such as article 1 of Decree No. 2663 and 374 of 1950 concerning the Substantive Labour Code which states the aim of "attaining justice in relations between employers and workers, in a spirit of economic cooperation

and social equilibrium". Article 5 of the same decree defines work as "all free human activity, whether material or intellectual, permanent or temporary, which a natural person performs knowingly in the service of another, and for whatever purpose, provided that it is performed in fulfilment of a labour contract". Article 57, paragraph 5 of the same Substantive Labour Code establishes that it is the duty of the employer "to maintain complete respect for the personal dignity of the worker, his beliefs and feelings". Under Article 59, paragraph 9, it is illegal for employers "to perform or authorize the performance of any act which violates or restricts the rights of workers or offends their dignity", and article 111 provides that "disciplinary sanctions may not consist of corporal punishment, or of measures which impair the dignity of the worker".

109. In reference to the exploitation of child labour, mention should be made of the rules and regulations providing for the protection of the child, such as articles 29, 30, 161, 171 and 242 of the Substantive Labour Code (see annex 32). Act No. 20 of 1982 establishes the Directorate-General of Child Workers as a subsidiary office of the Ministry of Labour and Social Security and adopts the Statute of Child Workers (see annex 33).

110. Regarding the exploitation of the prostitution of others and the traffic in persons, under the Code of Penal Procedure, chapter 5 entitled "Procurement", articles 308, 309, 310, 311 and 312 lay down penalties for the offences of enticement to prostitution, coercion into prostitution, traffic in women and children and encouragement of child prostitution (see annex 34).

Article 9

111. As Article 9, paragraph 1 deals with all forms of deprivation of liberty, whether for criminal or other reasons, such as mental illness, it is in order to explain the Government's present position on the subject. The Office of the Presidential Adviser for Human Rights has been participating, through an interdisciplinary team with the Ministry of Health and the Office of the Government Attorney for Human Rights, in a programme for the observation and evaluation of mental health centres, where persons who have suffered the side-effects of violence in the family or in the society are treated. It is argued that the mental health of the people of Colombia should be an ongoing concern and that, in addition, continuous attention should be paid to the human rights of every citizen who has suffered violations of those rights.

112. Some of the views heard by the Presidential Advisory office have led the team of advisers to take practical measures, hence their visits to institutions such as the Psychiatric Annex to the La Picota Prison, the Military Hospital in Antioquia and the private institution of El Hermano. These visits confirmed that there were real problems caused by a lack of basic materials and the obvious rejection of these persons by the family and the society. However, it is important to stress that these institutions are making a significant scientific contribution and that, despite the prevailing situations referred to above, mental health workers are continuing to look for more efficient and dignified methods of treating these illnesses. This is one of the primary objectives of human rights culture and policy in Colombia.

113. The Government is keenly interested in the subject because it is directly related to the deprivation of liberty because of mental illness. It should be made quite clear that the stay in mental hospitals is not a mandatory detention under national legislation, except in the case of a person who has committed an offence or represents a danger to the safety of others.

114. As stated in the report CCPR/C/1/Add.50, the legal provisions concerning the right to liberty and the guarantee against arbitrary detention, as well as the remedies available in cases of detention or imprisonment, are set forth in articles 23, 24 and 28 of the Constitution.

> "Article 23. No one may be molested in his person or family or be imprisoned or detained or have his domicile searched, except by virtue of a warrant issued by the competent authority, with all the legal formalities and on grounds defined by the law.
>
> In no case shall detention or imprisonment be ordered for debts or purely civil obligations except for purposes of restricted residence."
>
> "Article 24. An offender who is caught in flagrante delicto may be arrested and taken before a judge by any person. If the law enforcement agents pursue him and he takes refuge in his own dwelling, they may enter it for the purpose of apprehending him; and if he seeks to escape to the dwelling of another person, the consent of the owner or tenant thereof shall previously be obtained."
>
> "Article 28. No person may, even in time of war, be punished ex post facto except under a law, order, or decree in which the act has been previously prohibited and the penalty for its commission established. The foregoing provision notwithstanding, if there are serious reasons to fear a disturbance of public order in time of peace, persons suspected with good reason of attempting to disturb the public peace may be arrested and held by order of the Government, on the advice of the ministers.
>
> If the persons detained have not been released within 10 days following their arrest, the Government shall order their release or shall make them available to the competent judges, together with the relevant evidence, so that a ruling may be made in accordance with the law (Legislative Act No. 1 of 1968, art. 5)."

115. The most effective remedy for the protection of personal liberty is habeas corpus. It applies to any arbitrary act by any authority which attempts to restrict such liberty. The specific aim of this remedy, which entered into Colombian legislation with Decree No. 1358 of 1964, is to curb the abuse of authority by public officials. The Supreme Court of Justice reaffirmed this in its decision of 30 May 1983, when it ruled that since habeas corpus is a general and fundamental institution there are no areas where it may not be applied. Wherever a deprivation of liberty which may be deemed a violation of a law has taken place, this protection is available, regardless of the rank of the public official causing that deprivation, who is bound to adhere fully to the rules of law in the exercise of his duties.

116. To sum up, when a person is arrested in violation of the constitutional guarantees referred to previously, or the deprivation of his liberty is prolonged illegally, the right of habeas corpus may be invoked. The provisions governing this institution are set forth in various articles of the Code of Penal Procedure:

> "Article 454. Habeas corpus is a right which is exercised for the protection of personal liberty against any arbitrary act by any authority which attempts to restrict such liberty."
>
> "Article 455. When a person is arrested in violation of constitutional or legal guarantees, or the deprivation of his liberty is prolonged illegally, he may invoke the right of habeas corpus. The petition of habeas corpus shall be processed immediately according to the procedure set out below."
>
> "Article 456. The right of habeas corpus may be invoked before any criminal judge by the arrested person wherever he is, or before the criminal judge of the nearest municipality, if his arrest has been ordered by the single criminal judge who sits in that municipality."
>
> "Article 458. The petition of habeas corpus may be filed by the arrested person himself, by any other person on his behalf without any need for a power of attorney, or by the Attorney-General."
>
> "Article 460. On receipt of the petition, the official shall immediately order an inquiry as to whether any proceedings have already been initiated in respect of the matter which gave rise to the petition. This inquiry shall be conducted at the latest within the 12 hours following."

Under no circumstances shall the petition be placed on the regular court calendar; and it shall be dealt with exclusively by the official involved. In short, personal security comprises not only liberty, equality and ownership but also the body of essential principles which form the basis of our legislation.

117. These rights of personal liberty and security which are established in our legislation consist of the right of all persons who are under the jurisdiction of the Colombian Government to engage independently in any lawful activity, to travel freely, and not to be arrested through arbitrary detention carried out either by the authorities or by individuals. It includes the right to dispose of one's own person and dwelling, to pursue personal activity of any kind which is not in breach of the law, and without molestation by anyone, in the full certainty that this activity will not be suspended, curtailed or hampered, that its effects will be within the limits of the law and that it will incur no liability if it does no harm to the society or to a third party.

Article 10

118. The information supplied in the previous report (CCPR/C/37/Add.6/Rev.1) regarding article 10 referred to Decree No. 1817 of 1964, articles 14, 15, 18, 21, 22, 23 and 24 of which established the rules for segregating accused

persons from convicted persons and adults from minors as well as the treatment to be given to prisoners based on respect for human rights. In his report we will describe the work done by the Rehabilitation Division of the Directorate-General of Prisons between 1987 and 1990, the development of educational programmes and the investment projects for 1991.

Rehabilitation Division

119. This Division of the Directorate-General of Prisons in 1987 launched the programme to assist mentally ill prisoners and was able to benefit prisoners with psychiatric problems in terms of accommodation, health, social care, allocation of dormitories, therapy and workshops, making an all-round improvement to their living conditions in the prisons. The programme reached an average of 300 prisoners who were confined in four psychiatric wards, and an investment was made in the programme of 52 million pesos during that year. The social assistance programme for prisoners was also implemented during that year, dealing with the needs of accused and convicted inmates in regard to health, hygiene, cleanliness, personal appearance, dormitory space and canteens, etc. In addition, basic hospital care was given to the families of prisoners, to elderly prisoners and to prisoners belonging to the indigenous population.

120. Another programme executed during that year was the formal and non-formal education programme. It reached prisoners through a training scheme and encouraged them to work towards the primary school certificate and the higher school certificate in those centres where the programme was available. In 1987, 121.8 million pesos were spent on 80 institutions and an average of 8,000 prisoners benefited.

121. The programme to assist the prison system and to provide prisoner training has improved the quality of work and has given training in carpentry, shoemaking, decorating, mechanics, tailoring, rope-making, laundry and other fields, by means of direct administration and/or through agreements signed with individuals or companies. During the period 1987-1990, the amount of 305 million pesos was invested to meet the needs of 40 prison institutions and it reached an average of 7,650 prisoners.

122. The programme for farm development seeks to encourage work, training and economic self-sufficiency in those prison institutions which have farms, by financing projects for permanent crops, semi-permanent or cash crops as well as livestock activities (animal husbandry, cattle raising and development, pig farming and rearing of smaller animals). For this programme a budget of 264 million pesos was required for the period 1987-1990, to meet the needs of 45 prison institutions and directly assist an average of at least 3,500 prisoners per year.

123. The pilot rehabilitation project for minors which was promoted by the Rehabilitation Division has generated a change of attitude towards drugs, and a decline in the delinquent behaviour of the minors who have benefited from the programme, preparing them for a rehabilitation programme outside the prison. During the period 1987-1990 activities were pursued in two institutions which reached an average of 1,000 prisoners per year.

124. The programme to provide assistance to minors in detention has helped prisoners by improving their living conditions; in particular they received assistance in proper health and legal services and their perception of narcotic drugs has changed. Over the last four years, some 47 million pesos have been invested in these activities, in 12 institutions, which have helped an average of 4,000 prisoners per year.

125. Another programme carried out by that office was the granting of medical material. Under it the prison population received assistance in matters of health and gradually the prison institutions were given medicines, basic equipment, materials and supplies. It is hoped in 1991 to hire professionals in the field to perform compulsory social service in the prisons with a larger population, which are not receiving satisfactory coverage under the basic scheme of the Ministry and the Directorate-General of Prisons. Over the last two years 324 million pesos have been invested in the various prison institutions of the country.

126. The Directorate-General of Prisons has made efforts in individual institutions and at the central level to combat drug dependency, as for example the programme for the rehabilitation of minors, Alcoholics Anonymous support groups and educational campaigns for primary prevention in different prisons. These efforts are all directed to surmounting the problem; but there are no clear and definite policies to direct, organize, channel and unify the work throughout the country or the measures to be taken and the techniques to be used in working on this problem inside the prisons.

127. Consequently, the Central Advisory Group organized and held the first seminar on techniques for the prevention of drug dependency, for application within the prison system, in order to begin motivating the people who work in the country's prison institutions and sensitizing them to the need to do preventive work. The seminar was used as an opportunity to assess the extent of the problem within the prisons and this was done through the professional staff who took part in the seminar.

128. In conformity with the prison regulations, Decree No. 1817 of 1964, the Educational Section of the Rehabilitation Division, is the unit responsible for any programmes proposed by the Directorate-General of Prisons and its functions are as follows:

- To plan, organize, direct and monitor the educational, cultural and sporting activities of all the prison institutions of the country;
- To organize basic primary literacy in the prisons;
- To encourage the operation of libraries for prisoners;
- To orient and direct activities of religious worship;
- To organize religious services, always acting in agreement in accordance with the chaplains;

- To ensure that the educational activities pursued by both officials and individuals assisting in the programmes serve to educate and edify the prisoner.

Bearing in mind the above considerations, the following educational programmes have been implemented for the prison population.

Formal education programme

129. The education units in the country's prisons provided basic literacy courses and further schooling for the prison population through instructors or teachers appointed by the Ministry of Justice, working on secondment from the regional education authorities, with internal monitors or wardens. Form 1SE.88 was prepared and sent out to every prison for the purpose of collecting quarterly information on education activities. For its correct processing, circulars containing clear and precise explanations were sent out, yielding good results. In addition to completing form 1SE.88, those responsible for educational work have to send in half-yearly reports on the academic level of the entire prison population and half-yearly reports on the work done by teachers. The Procurement Board of the Special Rehabilitation Fund was persuaded to allot sums for the purchase of teaching materials such as exercise books, pencils and chalk for 30 prisons.

Prison teaching programme

130. The results were positive at the prisons where the training was given. It was possible to organize groups with a participation of 202 inmates at penitentiaries, 435 inmates at district prisons, 203 inmates at women's prisons, and 307 at circuit prisons, making a total of 1,147. For the proper execution of the programme, several communications were sent out in which guidelines were given in response to the various concerns expressed by the directors and senior officials of the programme, members of the Special Rehabilitation Unit. In order to ensure a better structuring of the programme, teaching modules using the knowledge acquired at the UNISUR seminar organized by the Ministry of Justice's Selection and Training Department were prepared in coordination with teachers at the three prisons in Bogotá. These modules - on democracy, human relations, oral expression and listening, sport, introductory materials and so forth - are designed in such a way as to develop the topics of the programme presented in the primer with which the programme was initiated.

Correspondence courses

131. Correspondence courses are promoted by the Latin American Institute for Educational Development (IDEL) at prisons in Bogotá and Cartagena; there are also individual cases at other prisons. Informal studies were carried out totally by correspondence and without cost to the prison authorities or inmates.

Library programme

132. For the purpose of improving conditions in prisons, libraries have been promoted through the 1987-1988 National Competition. The aim is to organize a

library service and enhance its effectiveness. This has been done to a 50 per cent extent, all prisons having shown an interest in participating in the competition for "The best library".

Cultural activities

133. Cultural activities such as painting, drama, music, dance and other subjects of interest to the prison population have been developed.

Basic education programme by television and General Training Fund

134. In the second half of 1988 the Directorate-General of Prisons, continuing the development of programmes to achieve the social rehabilitation of prisoners through its education section and taking up the valuable offer made by the General Training Fund (INRAVISION), promoted the basic education by television programme at six prisons - the National Model Prison, the Women's Prison, Facatativa, Villavicencio, El Barne Penitentiary, and La Picota. Since this new education programme began in prisons, one of the main objectives has been the signing of an agreement between the Ministry of Justice, the Ministry of National Education and INRAVISION to give the programme solid backing and to guarantee its continuity.

Rehabilitation Division, industrial sector

135. The Oriente penal colony, the seven penitentiaries, the 23 district prisons and the 10 women's prisons have permanently benefited from the investments made under the national budget, reflected in a high occupational level and a high level of income in special funds. Carpentry and handicrafts are the basic activities in which the 65 million pesos will be invested with a view to improving the quality of work, strengthening employment and specializing production at the 34 judicial circuit prisons selected. This is in line with the recommendations which the National University and the Ministry of Justice made in the plan for development and rehabilitation of the national prison system.

A new model penitentiary

136. Between 30 August and 1 September 1990 a national meeting on prisoners and a new model penitentiary was held at Bogotá under the auspices of the Office of the Presidential Adviser for Human Rights and the Office of the Government Attorney for Human Rights. The topics dealt with were the role of the prison in a democratic society, prisons and maximum security wings, anthropological and legal considerations regarding the imprisonment of indigenous persons, alternative solutions to overcrowding and rehabilitation, the diversification and graduation of penalties, work and education as a rehabilitation component of the penalty, the humanitarian regulation of prison visiting, the legality of disciplinary measures applied to prisoners, the criminal courts and security measures, the treatment of juvenile delinquents, and female crime and the problem of female prisoners in Colombia. In order to publicize prisoners' rights at the national level, a card entitled "The prisoner's rights" has been distributed to members of the Technical Corps of the Judicial Police, who are the officers responsible for making arrests under the law (see annex 35).

INVESTMENT PROGRAMME FOR 1991

NUMBER	ESTABLISHMENT	TYPE	PRESENT POPULATION	NUMBER WORKING	EXPECTED INCREASE	WORKSHOPS	WORKSHOPS	AMOUNT ALLOCATED (pesos)
01	Andes	C.C.J.	204	60	238	Saddlery and carpentry	358	1 470 000
02	Bolivar-Antioquia	C.C.J.	83	9	18	Handicrafts, saddlery	50	1 470 000
03	La Ceja	C.C.J.	102	61	0	Saddlery, carpentry	80	1 470 000
04	Puerto Berrio	C.C.J.	160	32	12	Saddlery, carpentry	80	1 470 000
05	Caucasia	C.C.J.	6	3	41	Handicrafts	80	1 470 000
06	Sonson	C.C.J.	68	34	32	Saddlery, carpentry	120	1 470 000
07	Turbo	C.C.J.	104	19	100	Handicrafts	220	1 470 000
08	Urrao	C.C.J.	115	38	35	Saddlery, carpentry, rope-making	132	1 470 000
09	Yarumal	C.C.J.	143	43	0	Saddlery, dressmaking, carpentry and handicrafts	36	1 470 000
10	Chiquinquira	C.C.J.	94	35	230	Saddlery, carpentry	500	1 470 000
11	Puerto Boyaca	C.C.J.	67	16	72	Dressmaking, carpentry, handicrafts, rope-making and shoe-making	160	6 670 000
12	Sogamoso	C.C.J.	172	63	75	Carpentry, decoration, handicrafts	250	1 400 000
13	Antioquia	C.C.J.	97	46	0	Handicrafts and carpentry	80	1 470 000
14	La Dorada	C.C.J.	170	22	78	Carpentry, baking, handicrafts	180	1 470 000
15	Salamina	C.C.J.	85	28	9	Saddlery, handicrafts, carpentry	68	1 470 000
16	El Bordo	C.C.J.	72	36	3	Handicrafts, carpentry	70	1 470 000
17	Santander de Quilichao	C.C.J.	108	36	100	Saddlery, dressmaking, carpentry, handicrafts	252	1 470 000
18	Fusagasuga	C.C.J.	81	33	49	Saddlery, handicrafts, carpentry, baking	148	1 470 000
19	Garzon	C.C.J.	150	60	7	Carpentry, shoe-making, handicrafts, dressmaking	120	1 470 000
20	Cienaga	C.C.J.	135	15	18	Handicrafts, baking	60	1 470 000
21	La Plata	C.C.J.	71	44	23	Carpentry, handicrafts	120	1 470 000
22	Granada	C.C.J.	73	25	19	Handicrafts, carpentry	80	1 470 000
23	Ipiales	C.C.J.	75	27	38	Saddlery, carpentry	118	1 470 000
24	Tumaco	C.C.J.	111	19	36	Handicrafts	1 000	1 470 000
25	Santa Rosa de Cabal	C.C.J.	132	20	41	Saddlery, dressmaking, carpentry, rope-making	111	6 370 000
26	Ocaña	C.C.J.	100	20	300	Handicrafts, carpentry, baking	600	1 470 000
27	Barranca Bermeja	C.C.J.	113	45	0	Carpentry, decoration, handicrafts	60	1 470 000
28	Socorro	C.C.J.	182	87	79	Carpentry, saddlery, handicrafts, machinery and repairing	300	1 470 000
29	Chaparral	C.C.J.	123	44	50	Handicrafts, carpentry	170	1 470 000
30	Espinal	C.C.J.	158	37	118	Saddlery, dressmaking, carpentry, handicrafts	520	1 470 000
31	Honda	C.C.J.	154	45	55	Carpentry, handicrafts, shoe-making	180	1 475 000
32	Cartago	C.C.J.	27	58	230	Ceramics, carpentry, handicrafts	520	1 475 000
33	Tulvu	C.C.J.	275	61	50	Shoe-making, carpentry	100	1 475 000
34	Sevilla	C.C.J.	125	70	30	Saddlery, dressmaking, carpentry, handicrafts	220	6 370 000
			4 355	1 291	2 086		6 103 m^2	65 000 000

Article 11

137. Legislation on this subject has not changed in Colombia in recent years. Both article 23 of the Constitution and article 4 of the Code of Penal Procedure prohibit detention, imprisonment or arrest, as well as any criminal investigation, for debts or civil obligations (see annexes 36 and 37).

Article 12

138. By law individuals are allowed to do anything that they are not prohibited from doing. Article 20 of the Constitution states that private persons are answerable to the authorities only for violations of the Constitution or the laws. While freedom of movement is not provided for in the Constitution, it is understood to be permitted. Articles 96-100 of the National Police Code provide for freedom of movement, establishing limitations only for the purpose of guaranteeing public safety and health (see annex 38).

139. Colombian nationals may leave the country whenever they wish provided that they have a valid passport with a visa for the place to which they are going in accordance with the provisions, regulations or treaties in force; this control is necessary in order to avoid, as far as possible, the deportation of Colombian nationals for violating the immigration laws of other countries. The provisions currently governing the entry, stay and departure of foreigners in Colombia are contained in Decrees Nos. 1000 of 1986 and 2000 of 1987 (see annexes 20 and 21). Finally, Colombian citizens are not prevented by any legal provision or practice from returning to Colombia whenever they want.

Article 13

140. The compulsory departure of an alien from Colombian territory is a penalty established as follows:

(a) Deportation: This penalty is imposed on an alien who falls into one of the categories established in article 128 of Decree No. 1000/86 and in article 12 of Decree No. 2000/87. Such a person may return to the country only six months afterwards and then only if he has a visa issued by the Ministry of Foreign Affairs (see annexes 20 and 21).

(b) Expulsion: In the first place, this penalty is imposed as an administrative sanction; after an investigation by the Investigation Division establishing that the alien falls into one of the categories laid down in article 131 of Decree No. 1000/86, an order is issued for his expulsion from Colombia. An appeal against such a decision lies through the administrative channel, has suspensive effect, and may be lodged within five days from the date of notification. The alien may appoint a qualified lawyer to represent him during the proceedings. If he does not have a lawyer, one will be appointed for him ex officio, unless the alien expressly declares that he intends to represent himself. In the second place, expulsion is imposed as an accessory penalty under article 42 of the Penal Code; the Aliens Department will notify the alien and his legal representative of what has been ordered by a competent authority (see annex 39). The expulsion may not be suspended by

subsequent good conduct, as provided for in article 92 of the Penal Code. If an alien who has been expelled from the country returns to it, he commits the offence of unlawful return established in article 185 of the Penal Code. Finally, article 3 of Decree 1000/86 sets forth the grounds for preventing entry into Colombia (see annex 40).

Article 14

141. The equality of everyone before the law has always been an established principle in Colombia's legal system. It is laid down in article 8 of our current Penal Code, according to which everyone has the same legal rights and guarantees. Furthermore, although it is true that there are certain considerations such as age, the status of the perpetrator of certain offences and other natural or legal characteristics relating to the kind of offence committed and its punishment, they are strictly regulated by law and no abuses of any kind occur.

142. Our legislation does not permit any kind of discrimination other than that provided for by law. All persons are equal before the law, the authorities and the courts, and any kind of discrimination based on social, economic, cultural, racial or other status is prohibited. In Colombia, everyone has the same rights, guarantees and judicial remedies, regardless of religious belief or political ideology.

143. The foregoing considerations are not at variance with the principle of the individualization of the penalty, according to which the application of the penalty depends on personal characteristics such as whether the offender is a minor or has a previous record of good behaviour.

144. Day after day Colombia is making every effort to perfect its condition as a State subject to the rule of law and has established, through a legislative procedure regulated in the Constitution, guiding principles in the various areas of law. Every action at law, whether criminal, civil or relating to employment, is attended by guarantees for the accused or the parties, including, in particular, the right to a defence, the public nature of the proceedings except for restrictions with regard to the confidentiality of the pre-trial stage, the public and controvertible nature of the evidence, the possibility of appealing to a higher court for a review of the lower court's decision, the public nature of decisions and judgements, and so on. Likewise, article 2 of our Code of Penal Procedure stipulates that anyone accused of committing a punishable offence may not be deprived of his fundamental guarantees.

Article 15

145. Colombia is a State subject to the rule of law and consequently both the rulers and the ruled must obey the law. This principle can be found in article 20 of the Constitution, which states that "Private persons are answerable to the authorities only for violations of the Constitution or the laws. Public officials are answerable for the same violations, and also for exceeding their powers or for omissions in the fulfilment of their duties." Article 26 of the Constitution establishes the right to due process, to a

comprehensive and appropriate defence and to the retroactive application of the more favourable criminal law although it may have been enacted after the acts were committed, the trial took place or the sentence was delivered. Consequently, anyone who commits an act prohibited by the law is entitled to require that he be tried by the procedures provided for by the law in force at the moment of the trial and by courts having current jurisdiction to deal with the case, without omitting any of the formalities that guarantee the possibility of an effective defence against the charge of having committed acts prohibited by the law in force at the time of their commission. Accused persons are entitled to a defence during their trial and to not being convicted without being proved guilty, with a presumption of innocence.

146. The general principle in Colombia is that the law is not retroactive. However, in criminal matters the more permissive or favourable law must be applied, even though it was enacted after the commission of the acts for which the accused is being tried, in preference to a more restrictive or unfavourable law. This treatment is fully justified if account is taken of the fact that law was created for the protection of society. If certain behaviour ceases to be dangerous or, at least, is considered to be not so serious as before and is therefore no longer classified as an offence or the penalty attaching to it is reduced, it is only logical and just that persons who have been convicted or who are being tried for it should benefit thereby.

147. Article 28 of the Constitution establishes another right which confers personal security upon persons subject to Colombian jurisdiction. The first paragraph of this article stipulates that no person may, even in time of war, be punished ex post facto if it is not under a law, order or decree in which the act has been previously prohibited and the punishment for its commission established.

148. Likewise, the rights set forth in article 15 of the Covenant were established in one of the oldest laws of the Republic of Colombia, Act No. 153 of 1887, still in force. In accordance with article 43 of Act No. 153, the pre-existing law prevails over the ex post facto law in criminal matters. Nobody may be tried or punished except under a law that was promulgated before the act giving rise to the trial was committed. This rule applies only to laws which define offences and lay down the punishment for them, but not to laws which establish courts and determine procedure, which are to be applied in accordance with article 40. It will also be found that article 44 of the same Act gives effect to the civil rights established in the Constitution and the guarantees set forth in article 15 of the Covenant: in criminal matters the more favourable or permissive law is applied in preference to the more severe or restrictive, even though the former was enacted after the time when the offence was committed. This rule benefits convicted prisoners serving their sentences.

149. The above-mentioned constitutional principles are given effect in our Penal Code and Code of Penal Procedure. The guiding principles established in the general part of the Penal Code regulate all judicial proceedings at trials of that kind. The purport of article 1 of this text is that nobody may be convicted for an act which is not expressly declared to be punishable by the

criminal law in force at the time when it was committed, nor subjected to punishment or security measures which are not provided for in it. The principle applied in Colombia is that there can be no offence without a prior law unequivocally declaring the action or omission a punishable offence. Consequently, no one may be punished for an act in respect of which there is no express prior legal prohibition.

150. In order for conduct to be considered as an offence in Colombia, it is not sufficient for it to be categorized, i.e. described in a legal norm. It must also be unlawful and culpable. Behaviour is unlawful when, in addition to being described in the legislation, it injures or endangers a general or specific interest protected by the country's legislation. No offence occurs without an actual or potential infringement of an interest protected under criminal law, and there is no punishable act that does not harm or endanger an asset that is under the protection of the legal order of the State. In order for categorized and unlawful behaviour to be punishable, it must be carried out culpably, i.e. with an awareness on the part of the perpetrator, who had the obligation to act otherwise and the capacity to do so.

151. The principles that the behaviour must be categorized, unlawful and culpable, established in articles 3, 4 and 5 of the Penal Code of Colombia, provide full guarantees of security for persons residing in the national territory. Article 6 of the Code stipulates: "The more permissive or favourable law, even if subsequent to the act, shall be applied in preference to the restrictive or unfavourable law. This principle shall also prevail for convicted persons."

152. In accordance with the foregoing principle, when a new law establishes an offence that did not exist previously, the law is not retroactive in this case and only covers acts committed while it is in force. If the new law eliminates an offence that existed previously, the punishable acts under the previous law are considered never to have existed and hence will not be penalized. In such cases, those convicted for an offence which has been eliminated shall be released. If the new law introduces amendments but maintains the offence, the less severe law shall apply.

153. The penalties applicable to offences are fully regulated in title IV of the Penal Code. Under article 12 of the Penal Code, penalties in Colombia have a retributive, preventive, protective and resocializing function, while security measures pursue the goals of treatment, protection and rehabilitation. The retributive function consists of re-establishing the legal order of society by strengthening the power and authority of the State. The preventive function is both general and specific, since it is a warning to the community to refrain from committing offences and at the same time makes it impossible for the individual to do damage. The protective function is aimed at reforming the offender through education and work. The purpose of the resocializing function is to combat the individual causes of crime in order to enable the offender to readjust to life in society.

Article 16

154. Chapter I, title I, article 73 of the Colombian Civil Code classifies persons as natural or legal persons; article 74 defines them as "individuals

of the human species, whatever their age, sex, lineage or status"; and article 75 divides them into those domiciled in Colombia and transients (see annex 41). The principle of the existence of persons is laid down in chapter I, title II, articles 90-93, which determine the legal existence of the individual and the protection of life, including life in the mother's womb (see annex 42). Title XXXVI, article 663, defines legal persons as "fictitious persons capable of exercising rights and contracting civil obligations and being represented judicially and extra-judicially". The article divides legal persons into two types: corporations and foundations of public utility, with some falling into both categories (see annex 43).

Article 17

155. Freedom of movement and freedom to choose one's place of residence or establish one's domicile are provided in the constitutional prohibitions against slavery, against Congress's ordering acts of proscription or persecution against persons or corporations and against anyone's being detained for debts or purely civil obligations or deprived of his liberty except when the requirements of habeas corpus have been met. Everyone may move freely within or outside the national territory, barring a judicial decision. This is one of the most widely granted and protected powers.

156. Regarding the inviolability of the domicile, article 23 of the Constitution stipulates: "No one may be molested in his person or family, or imprisoned or detained or have his domicile searched, except by virtue of a warrant issued by the competent authority, with all the legal formalities and on grounds defined by the law.

In no case shall detention or imprisonment be ordered for debts or purely civil obligations except for purposes of restricted residence." The concept of domicile is understood to be broad, i.e. it includes the place where residence is established, even if there is no intention to stay, and the place of work or office, and is therefore a kind of extension of the home and deserves the same respect; the domicile may be searched only in accordance with the requirements of article 23 of the Constitution and its subsequent legal ramifications.

157. Concerning protection against arbitrary or unlawful interference with correspondence, article 38 of the Constitution stipulates: "Correspondence by telegraph and mail is inviolable. Letters and private papers may not be intercepted or examined, except by an authority, upon order of a competent official, in such cases and with such formalities as the law may establish, and for the sole purpose of seeking legal evidence. For the assessment of taxes and for cases of intervention by the State, the presentation of accounting books and related papers may be required. The circulation of printed matter through the mails may be burdened with taxes, but it may never be prohibited in time of peace".

158. The inviolability of correspondence is a constitutional guarantee that derives from personal freedom, i.e. the extension of personal freedom to a specific area of personal activity. It is enshrined in article 38, which lays

down the same requirements, with regard to interception of correspondence or examination of correspondence by the judicial authority, as those established for the detention of individuals, i.e. such measures may be carried out only by a public authority on order of the competent authority, in such cases and with such formalities as the law may establish. Correspondence is considered to mean all private papers or documents. That is, it includes telegraph and postal papers or messages processed by official communications systems as well as any others produced or received by an individual. In the case of telecommunications, the guarantee consists of the obligation of the officials receiving and transmitting the message to keep its contents confidential.

159. With regard to protection of persons' honour, article 16 of the Constitution of Colombia stipulates: "The authorities of the Republic are established to protect the lives, honour and property of all persons residing in Colombia and to secure the fulfilment of the social obligations of the State and of individuals". The right to honour is given broad protection in the Constitution and legislation of Colombia, in view of its great importance for community living. Concretely, the right to honour means the good name, good reputation, credit, esteem and appreciation that persons obtain when they behave decently within the community in which they live. Once honour is lost, communal life becomes virtually impossible and degenerates into a type of moral death, which not only directly affects the one who loses it, but also affects his relatives, whence the importance attached to this right in Colombian legislation.

160. In addition to article 16, a more specific provision, article 42 of the Constitution, stipulates that the press is free in time of peace and adds that it is liable for attacks on personal honour. This special protection is afforded because the press is one of the most effective means of disseminating ideas and news and could therefore be used as an instrument of slander, insult and calumny. The law specifies the cases in which the above-mentioned offences are committed, for the purpose of avoiding and punishing attacks against personal honour.

161. In furtherance of the above-mentioned constitutional norms, the Colombian Penal Code was enacted, protecting the rights set forth in article 17 of the International Covenant on Civil and Political Rights. Title X, chapter IV establishes the offences against the inviolability of the home or work place. Article 284 of the Code stipulates: "Anyone who arbitrarily, deceitfully or clandestinely penetrates into another's home or premises shall be liable to a prison term of six (6) months to three (3) years". Article 285 of the Code stipulates: "Anyone who is present in another's home or adjoining premises deceitfully or against the will of a person entitled to prevent him from so being shall be liable to three (3) to eighteen (18) months' detention". Article 286 reads as follows: "A public official who abuses his functions by penetrating into another's home shall be liable to one (1) to three (3) years' detention and loss of his post".

162. Another provision protecting the rights enshrined in article 17 of the Covenant is article 287 of the Penal Code, which clearly expounds on the above-mentioned constitutional norms: "When the acts described in this chapter occur in a place of work, the corresponding penalty shall be decreased by half".

163. Title X, chapter V protects persons from any arbitrary interference with their correspondence. Article 288 reads as follows: "Anyone who unlawfully removes, conceals, misplaces, destroys, intercepts, monitors or stops a private communication destined for another person, or improperly looks into its contents, shall be liable to six (6) months' to two (2) years' detention, provided that the act does not constitute an offence carrying a more severe penalty. The penalty shall be eight (8) months' to three (3) years' detention if an official communication is involved. If the perpetrator of the act reveals the contents of the communication or uses it to his own advantage or to the advantage or detriment of another person, the penalty shall be a prison term of one to three years in the case of a private communication and two to five years in the case of an official communication". Article 289 of the Code stipulates: "Anyone who, to his own advantage or to the advantage or detriment of another person, divulges or uses the contents of a document which should be kept confidential, shall be liable to six (6) months' to two (2) years' detention, provided that the act does not constitute an offence carrying a more severe penalty".

164. Regarding the specific norms protecting individuals' honour, title XII, in its single chapter, refers to the offences of injurious behaviour and calumny. Article 313 reads as follows: "Injurious behaviour. Anyone who attributes dishonourable actions to another person shall be liable to a prison term of one (1) to three (3) years and a fine of 1,000 to 100,000 pesos". Legally speaking, injurious behaviour consists of attributing dishonourable actions to another person, discrediting the person or damaging his honour. Whoever carries out the injurious act must have an awareness of the fact that he is offending a person's dignity by the act. Concerning calumny, article 314 stipulates: "Anyone who falsely accuses another person of a punishable act shall be liable to a prison term of one to four years and a fine of 5,000 to 500,000 pesos". Under Colombian legislation, in order for an offence to be considered calumny, a specific or determinable person must be accused of a wrongful act, the accusation must be false, the perpetrator must be aware that it is false, and the perpetrator must have the will and awareness to make the accusation.

Article 18

165. Colombian legislation respects and defends the right of every person freely to choose and profess his religious beliefs. To familiarize itself with the legislation and practical measures adopted by the Government to defend such rights, the Human Rights Committee is invited to consult the report submitted to Mr. Angelo Vidal D'Almeido Riveiro, Special Rapporteur on religious intolerance, through the United Nations Centre for Human Rights (see annex 44).

Article 19

166. Below are descriptions of the legislation protecting freedom of expression in Colombia, and some of the provisions adopted by the Government to safeguard that right. Article 42 of the Constitution categorizes freedom of the press in time of peace, and the liability of the press if it undermines persons' honour or the social order (see annex 45). This guarantee, which

also protects other means of communication such as radio and television, is subject to restrictions for the protection of the reputation of others and of national security, public order or community health. In this respect journalists are subject to a system of subsequent criminal liability if they commit punishable acts in their reporting. This is the case for injurious behaviour or calumny, criminal penalties for which are set out in articles 313 and 314 of the Colombian Penal Code (see annex 46). Similarly, Act No. 29 of 1944 establishes the right of correction in cases of abuses committed through calumny or insulting ideas.

167. Furthermore, article 144 of the National Police Code prohibits public performances in three specific cases: (a) if the performance is to be given in an unsuitable area or place, or on premises that are not sufficiently secure or do not fulfil health requirements; (b) if the audience would be at serious risk; (c) if the performance involves placing persons with deformities or abnormalities on display. Article 151 of the Code stipulates that no film "may be shown to the public in an indoor or open-air cinema without prior authorization by the Film Classification Committee".

168. Television programmes are a public service under the responsibility of the State, and, according to article 4 of Act No. 42 of 1985, all radio and television channels are State property. Programming is thus subject to the regulations enacted by the National Television Council to ensure "dissemination of the truth and enhancement of the people's cultural level and health; preservation and exaltation of the country's traditions; fostering of social cohesion and national peace, democracy and international cooperation; and the safeguarding of the rights of suppliers and receivers of information", stipulated in articles 1 and 6 of Act No. 42 of 1985. The general regulations on television programming enacted by the National Television Council include prohibitions against messages or programmes undermining respect for the legitimate authorities, divulging details of a person's private life, showing scenes of physical or mental violence in a sensationalist manner, presenting images encouraging the use of drugs, containing information that might cause alarm or involving party proselytism.

169. As part of its efforts to enforce respect for freedom of expression and the right of individuals to receive information, the Colombian Government promulgated Act No. 58 of 1985, "containing the by-laws of the political parties and providing for the partial funding of electoral campaigns". It stipulates that the various political parties shall have equal use of the State communications media for electoral publicity. In fulfilment of this provision, the National Radio and Television Institute (INRAVISION) provided broadcast time Monday to Friday from 11 p.m. to 11.10 p.m. on television channel 1, permitting all political parties without discrimination to express their opinions.

170. During 1989, a total of 240 programmes were broadcast, as follows:

Political Parties	No. of Broadcasts
National Popular Alliance	21
Democratic Front	20
Popular Front	9
National Conservative Movement	20
MOIR	20
Unitary Metapolitical Movement	21
Colombian Communist Party	22
Christian Democratic Party	21
Colombian Liberal Party	22
Social Conservative Party	22
Socialist Workers' Party	22
Patriotic Union	20

171. As part of the National Rehabilitation Plan, on 12 April 1989 a series of miniprogrammes, "Yellow, Blue and Red", began to be broadcast, seeking a democratic channel of communication enabling the inhabitants of different regions of the country to express their needs and achievements. There have been a total of 242 broadcasts in the series, put out by two television stations from 7 p.m. to 7.05 p.m.

172. Article 31 of National Television Council decision No. 9 of 1987 stipulates: "Civic Messages: INRAVISION and the concessionaires may present messages, promotions or civic or institutional campaigns of genuine national interest, which shall be subject to the requirements regarding the contents of commercial messages and authorized by the Director. These messages may be presented by the Institute or television, preferably at times not used by the concessionaires. When the Institute requires concessionaires to broadcast such campaigns or promotions during a programme, they shall not be counted as part of the length of the programmes or of the commercials. The concessionaires may take their own initiative in giving directions for them and must place them in the commercial breaks. In such cases, the total programme time together with the commercial announcements, including the messages, campaigns or promotions, must not exceed the maximum time authorized for each programme".

173. In pursuance of the above-mentioned provisions, the following civic spots on the civil and political rights established in the Covenant were broadcast during 1989:

Body	No. of spots
Human Rights	35
Colombia Negra	28
Peace campaign	21
Social Foundation	34
Andean Children's Foundation	48
Solidarity for Colombia	26
Compartir	8
AIDS campaign	65
Ministry of Justice	62
Government Attorney's Office	20
Colombian Family Welfare Institute	16
Renewable National Resources Development Institute (INDERENA)	1

No communication medium may undermine State security, the administration of justice, public safety or individual freedom or violate any legislative provision.

174. The freedom established in article 42 is limited in accordance with article 121 of the Constitution, which provides for the state of siege. Thus this provision might involve a risk of censorship of the media by the Government. Nevertheless, ensuring freedom of expression has been a crucial element of the Government's policy for the defence, protection and promotion of human rights, as part of the strengthening of democratic institutions and the programme for political and social change. As indicated by President Virgilio Barco during his administration, freedom of expression enables leaders to become familiar with the desires and needs of the community and thus to find appropriate responses to the country's problems. Freedom of expression is also protected as a key element of the rights of the opposition and of minorities, and provides the necessary elements for the public to assess the Government's management and objectively choose its leaders, as indicated earlier.

175. The Government, concerned with the defence of the human rights laid down in this article and aware of the technological progress the world is currently experiencing, has in recent years given strong support to projects in the data-processing sector, in the following areas:

Data-processing dissemination and culture, from the introduction of computer projects to the classroom through the scientific and technical application of computers in various fields of knowledge;

Establishment and administration of information systems and databases providing national coverage;

Research and technical support for the public sector;

Establishment of a structure to promote the development of a computer industry, including: rules and regulations for data-processing, sector studies and scientific and technological research;

International cooperation activities and events concerning data-processing and new technologies.

176. Given the current circumstances in the country, with the various forms of violence referred to in the introduction to this report, a journalist's work in Colombia involves an element of risk, considering the atmosphere of intimidation that the drug traffickers have created. The Government firmly condemns the intimidation and all the violations of journalists' human rights and praises the courage and commitment of those upholding the principle of freedom of expression.

Article 20

177. As stated in connection with the preceding article, there are some restrictions on freedom of expression aimed at ensuring, inter alia, the protection of national security and public order. In view of the possibility which the media and private individuals have of breaking the law - to the detriment of general security and order - specific provisions have been incorporated in articles 7, 10 and 28-31 of Act No. 29 of 1944. These articles were spelt out in the preceding report (CCPR/C/37/Add.6/Rev.1).

Article 21

178. In the preceding reports submitted to the Committee and to the International Labour Organisation, the Colombian Government referred to the legal provisions establishing the right of peaceful assembly. Article 46 of the Constitution clearly sets forth the right of the people to meet or assemble peacefully, a guarantee which is extended to public demonstrations. Article 102 of the National Police Code establishes regulations relating to the exercise of the right of assembly, stipulating: "Any person may meet with others or parade in a public place for the purpose of expressing common interests and ideas of a political, economic, religious or social nature or for any other lawful purpose".

179. Excluded from these provisions are disorderly gatherings or riotous assemblies, which lack legal justification. The offence of riotous assembly is provided for in article 128 of the Colombian Penal Code, which defines it as the disorderly and violent expression of demands to the authorities. Article 14 of Decree No. 522 of 1971 establishes as a minor offence "disorderly gatherings which disrupt the peaceful conduct of social activities".

180. Article 106 of the National Police Code prohibits possession of firearms at any meeting or parade. Under Decree No. 522 of 1977, persons present at a gathering are forbidden to impede passers-by or vehicles on the public highway. Generally speaking, any assembly must comply with the requirements established in the Constitution and other laws. Failure to do so is punishable under article 104 of Decree No. 1355 of 1970, which stipulates: "Any public assembly or parade that degenerates into a riot or causes a breach of the peace or public safety shall be broken up". Freedom of assembly, which is regulated by means of the above-mentioned legislation, is that exercised in public places.

Article 22

181. The provisions relating to the right of freedom of association are listed and summarized below, with comments. Article 44 of the Constitution, which forms part of title III on "Civil Rights and Social Guarantees", establishes the right to form companies, associations and foundations which are not contrary to morals or the law, and authorizes their recognition as legal persons, within the category of inalienable and inviolable natural law. Colombian legislation nevertheless prohibits the existence of associations that jeopardize public morals or affect the country's legal assets. The Constitution specifies three types of organizations - companies, associations and foundations, which were defined in the previous report (CCPR/C/37/Add.6/Rev.1, para. 131).

182. As regards trade union freedom, articles 353 et seq. of the Substantive Labour Code set forth the right of freedom of association and the right to establish trade unions within parameters laid down in title I, chapters I-IV, relating to "Collective Labour Law" (see annex 47). With the aim of guaranteeing the right of association as established in the Constitution, the Colombian Government has in recent years granted legal personality to a broader range of organizations, including first-, second- and third-rank trade union organizations.

183. Similarly, the trade union organizations have been allowed to amend their statutes and to establish union assistance funds. And during the period 1986-1989 several trade union organizations merged in order to be able to exercise their right of association more easily, as indicated by the following figures:

Approvals of amendments of statutes	1,158
Trade union mergers	213
Trade union funds	108
Inquiries dealt with	1,063

184. In recent months President César Gaviria met the leaders of the United Workers' Federation (CUT) to examine national labour problems. These meetings have strengthened the principle of understanding between the authorities and the trade union organizations, as has the proposal to establish a number of joint commissions, which have studied labour reforms and the policy of privatizing State undertakings.

185. To prevent violation of the rights of assembly and association, article 292 of the Penal Code stipulates: "Any person who prevents or disrupts a lawful assembly or the exercise of the rights conferred by labour legislation or takes reprisals on the basis of a lawful strike, assembly or association shall be liable to one to five years' imprisonment and a fine of 1,000 to 50,000 pesos.

186. The National Government, conscious of the right of association as the very origin of civil society and political authority and as a key to governmental legitimacy, in 1976 complied with the requirements established for the ratification of ILO Conventions Nos. 87 and 98 and for the deposit of the ratifications with the Director-General of ILO through Acts Nos. 26 and 27 of that same year. In accordance with the international undertaking to produce labour statistics, the Ministry of Labour and Social Security conducted the third national trade union census, in conjunction with the various workers' central unions and trade union organizations. Trade unionism is one of the pillars on which Colombian democracy is based. It has been the means for broadening the participation of workers in the social, political and economic life of the country and for achieving legitimate protection of their interests.

Article 23

187. The Colombian State recognizes the right of persons freely to marry and to found a family. Article 113 of the Colombian Civil Code defines marriage as "a solemn contract by which a man and a woman unite in order to live together, to procreate and to provide each other with mutual help". The right to marry is not expressly recognized in the Constitution, but the tacit guarantee of this right is to be found in the constitutional provision which relates to the determination of civil status. In this connection, article 50 of the Constitution provides that "questions relating to civil status and the consequent rights and duties shall be determined by law". In accordance with article I of Special Decree No. 1260 of 1970, a person's civil status is "his legal situation in the family and society", which "determines his capacity to exercise certain rights and contract certain obligations". Article II of the same Decree stipulates that civil status "derives from the facts, acts and decisions that determine such status and from their legal classification".

188. Marriage is the civil status of married persons, arising from a juridical act that determines such status and generates rights and obligations between the spouses. The State, as a participant in regulation of the right

to marry, establishes through the Civil Code a matrimonial regime comprising public-order provisions and establishing the requirements for, and manner of, its celebration. These provisions include:

Article 116 of the Civil Code, which grants to persons over the age of 18 the right to marry freely; and

Article 140 of the Code, which provides that a marriage entered into through force or intimidation is null.

189. In accordance with the Vásquez-Palmas Concordat, regulations are established for the optional marriage regime, in accordance with which those about to marry have the right to choose between two forms of marriage: civil or Catholic. A civil marriage may be dissolved, in accordance with Act No. 1 of 1976, which provides for divorce in civil marriage, establishes regulations relating to judicial separation in civil and religious marriage, and amends a number of provisions of the Civil Code and the Code of Civil Procedure relating to the family (see annex 48).

190. Bearing in mind the importance of the family as the fundamental group unit of society and the protection it should be given by the Colombian State, various programmes have been developed in recent years aimed at improving the stability and well-being of the community. Thus the Colombian Family Welfare Institute (ICBF) provides active support for the most vulnerable sectors of the population with the aim of improving their quality of life through the prevention of family disintegration and the abandonment of children, together with legal services aimed at preventive protection. All the measures taken by the Institute have been geared to the social development policies formulated by the Government, especially the Plan for the Eradication of Absolute Poverty and the National Rehabilitation Plan (see annex 14). The Institute has accordingly implemented the "Welfare Homes Programme", defined as the series of activities by the State and the community aimed at promoting the all-round development of children under the age of 7, and strengthening the responsibility of the parents in the upbringing and care of their children within the same dwelling, in their joint work together and in the work of the community in general. The welfare homes have been developed both in the cities and in the rural areas of medium-sized and small municipalities. At present there are 47,000 community homes in 864 municipalities and 317 districts.

191. The general welfare of families has also been sought through several programmes, such as the supply of basic goods, the production of household articles and food, employment and social security coupons, the reduction of unemployment and underemployment, support for small businesses and a number of other programmes. Through the development of the various projects it is intended that services should be directed to the 40 per cent of the population with unmet basic needs, giving priority to the sectors of absolute poverty by means of the following strategies:

Inter-agency and intersectoral coordination, with the aim of achieving the integration of resources;

Community participation as a basic strategy enabling the community to determine its needs, propose alternative solutions and participate in the execution of programmes, with the constant objective of strengthening the family as the fundamental group unit of society;

Decentralization of services in support of the municipalities, so as to enable them to reorient their resources towards the social sector;

Efforts to find new sources of financing in order to expand coverage.

192. Among the facts given in this report, we have listed the basic functions of the Office of the Presidential Adviser for Young People, Women and the Family, established by the present Administration with the aim of ensuring the improvement of the living conditions of Colombians.

Article 24

193. In Colombia there are a total of 14 million children and young persons. The number of children under the age of 7 is estimated at 5 million and there are approximately 800,000 infants aged less than 1 year. Since a child is one of the most defenceless members of society, it is the responsibility of the State to ensure, as far as possible, that he enjoys the best possible living conditions. The Government is conscious of this responsibility and is convinced that investing in children means investing in the future, that children born in poor homes or in difficult circumstances require greater attention, and that depending on the circumstances in which today's children live, we shall be sowing the seeds of peace and well-being or violence and destruction. It has accordingly formulated the national policy in support of Colombian children, which includes four plans: the National Plan for Child Survival and Development (Supervivir) the Community Welfare Homes, already mentioned; Family Education for Child Development (PEFADI); and the Universalization of Basic Primary Education.

194. The aim of the first plan is to reduce disease and deaths among children under the age of 5 caused by acute diarrhoea, serious respiratory infection, communicable diseases preventable through vaccination (diphtheria, whooping-cough, tetanus, poliomyelitis, measles, tuberculosis), malnutrition, accidents, perinatal causes and psycho-affective deprivation. The basis of this plan is the creation of a "social front" for the survival of children made up of health visitors. Their work consists in visiting families with children under the age of 5 and pregnant mothers in order to give guidance on the health services offered by the State. There are at present over 400,000 health visitors working all over the country and more than 1.2 million families have been reached in this way. The programme is sponsored by the Ministry of Health, with the participation of the Ministry of Education and the Colombian Family Welfare Institute (ICBF) and the support of UNICEF.

195. As far as children are concerned, the Homes Plan has developed a series of activities in which the State and the community participate with the aim of promoting the psycho-social, moral and physical development of children under the age of 7 from sectors suffering from extreme poverty, by stimulating and

supporting their socialization process and improving nutrition and living conditions. The plan is also aimed at strengthening the responsibility of the parents for the upbringing and care of their children, through their joint work and that of the community in general. Its fundamental principle is the establishment of community homes, as already stated, in community buildings where one person deals with up to 15 children under the age of 7 in consultation with the Colombian Family Welfare Institute. Some 700,000 children are covered by this plan, and it is hoped that the figure will reach 1.5 million by 1992.

196. The Family Education for Child Development Programme (PEFADI) is aimed at peasant families through teachers and schools, with the objective of achieving adequate child development. It is directed by the Ministry of Education, with the participation of the ICBF and the Ministry of Health, and receives UNICEF support. At present the programme covers 233,000 children (through the education groups), 137,970 participating inhabitants of rural areas, 11,532 community health visitors, 10,220 established groups and 8,889 instructors.

197. The Universalization of Basic Primary Education Plan is directed by the Ministry of Education, in consultation with UNICEF. The aim of the plan is the universalization of basic primary education for children of school age (7 to 14 years), offering complete primary education for rural areas through the New School Programme in the 26,000 rural schools in Colombia; it covers some 850,000 children. Under the plan, teaching is active, the community participates, the promotion of courses for children is flexible and the teacher works with various levels at the same time. The objective is to develop the creative and analytical abilities ot children and to improve their self-perception. Companionship, cooperation, and civic, democratic and participatory attitudes are essential for the New School.

The new Minors' Code

198. On 1 March of this year the new Minors' Code came into force in Colombia. This unquestionably marks a great step forward in the provisions regulating the situation of the Colombian population below the age of 18 (see annex 49). The Minors' Code is made up of a preliminary section containing general principles and three parts entitled "Minors in need of care", "Organizations for the protection of minors and the family" and "Special provisions".

199. The objective of the Code is to establish the rights of the minor and to lay down the governing principles underlying protection standards. It defines the irregular situations in which a minor may find himself, and establishes and restructures the services responsible for protecting minors in an anomalous situation. It stipulates that a minor is in need of care when he has been abandoned or is in danger, he lacks sufficient attention to meet his basic needs, his assets are threatened by those administering them, he has committed an offence or participated in the commission of an offence, or he has no legal representation.

200. The measures provided for include criminal, administrative and civil penalties for administrators of hospitals and public and private clinics who

refuse to provide emergency medical services to such patients. A fine of two to twenty months' minimum legal wage is also payable by establishments which withhold care from minors.

201. Provision is also made for special treatment of indigenous minors in the following terms: "In cases involving indigenous minors, account must be taken, not only of the principles of the Code, but also of their special laws and their practices, customs and traditions, for which purpose the Indigenous Affairs Division of the Ministry of the Interior and, where possible, the traditional authorities of the community to which they belong, shall be consulted".

202. The measures envisaged in the Code include the creation of permanent family comisarías to perform a monitoring function, and the setting up of a National Committee for the Protection of Handicapped Children to provide guidance and to promote preventive action and the rehabilitation of minors with physical, sensory or mental handicaps. In addition to regulating the working hours and wages of minors, the new legislation provides for the membership of the Director-General of the Colombian Family Welfare Institute (ICBF) in the National Television Council and the inclusion of a representative of the Council in the Television Supervisory Commission.

203. The Minors' Code also embodies the principles set forth in the Convention on the Rights of the Child, adopted by the United Nations, which was approved by the Congress of the Republic in Act No. 12 of 1991, and for which the instrument of ratification will be deposited shortly. A statement of the grounds for the bill submitted to the Colombian Congress, which led to the adoption of the relevant legislation, is attached to this report, as is the address of the President delivered on the passage of the law adopting and ratifying the United Nations Convention on the Rights of the Child (see annexes 50 and 51).

204. With regard to the right of the child to be registered and to have a nationality, Decree No. 1260 of 1970 establishes the right of the child to a name (title II), as well as the obligation to register a birth (title VI). Article 46 states that "births occurring within the national territory shall be registered at the registry office of the district in which they take place. If the birth occurs in the course of travel within or outside the territory, it shall be registered at the place where such travel terminates" (annexes 52 and 53).

205. In the review published by the United Nations Children's Fund (UNICEF), entitled Una década para salvar un siglo: posuna nueva ética en favor de la infancia, recognition is given to the progress made in Colombia over the past decade in improving the quality of life of the child. Considered as major advances are the expansion of the range of integrated social services for the poor, political, fiscal and administrative decentralization, research into ways of eliminating poverty, the provision of basic services in cities and rural areas, and the four national policy plans. The observations made focus on the need to sustain and extend such programmes as far as possible and to redouble efforts to improve the situation of children, recommendations which the Government will do its utmost to implement.

Article 25

206. In both the initial report (CCPR/C/1/Add.50) and the second periodic report (CCPR/C/37/Add.6/Rev.1) of Colombia, a description was given of Colombian legislation on the right to political participation. Consequently, the present report will confine itself to a description of the most recent legislation in this area and the relevant procedures which have been developed. In recent years, new forms of public participation in national social and political affairs have been developed.

207. These forms of participation include the following:

The popular referendums provided for in article 6 of Legislative Act No. 1 of 1986, which introduce into Colombian political institutions a mechanism specifically for participatory democracy. Legislation on the popular election of mayors was promulgated in Act No. 78 of 1986, as described at length in the preceding report. With a view to expanding democratic procedures to permit fuller participation, Act No. 3 of 1989 provides for the results of internal votes of political parties or movements to be scrutinized by the National Registry of Civil Status. This provides the politically organized public with new scope for participating in the selection of candidates for the office of President (see annex 54);

Local municipal administrative boards, authorized under article 196 of the Constitution. These are collegiate administrative bodies set up by municipal councils at commune and district level. Regulations concerning municipal elections were introduced into the Constitution by Legislative Act No. 1 of 1986 under which decisions by municipal or district councils may be put to a popular referendum when the mayor, the councillors or a given number of members of the public or communal boards so decide. Act No. 42 of 1989, concerning popular referendums, deals with the procedure for calling a referendum, matters which cannot be put to a referendum, judicial vetting of administrative acts in the convening of referendums, ballotting and vote-counting procedures, the majority required for a decision and the effects of pcpular decisions. Under this Act, the referendum is an institution which guarantees the effective involvement of the community in direct decision-making on local matters (see annexes 3, 4, 5 and 6);

The institutionalization of the representation of consumers on the boards of municipal public service corporations. Such representation is governed by Decree No. 700 of 1987 (see annex 55).

208. In keeping with the Government's fundamental aim of direct public participation in decision-making, the public has been given a role in the reform of the Constitution itself. Under Decree No. 927 of 1990 relating to the state of siege, the Government permitted the public to decide on the formation of a democratic Constituent Assembly comprising representatives of national social, political and regional movements to reform the Constitution, precisely with a view to strengthening participatory democracy (see annex 56).

209. The new mechanism, as described at the beginning of this report, will permit direct public involvement in the organization and operation of institutions. Decision-making by the public on matters directly concerning it has been promoted by the formation of Rehabilitation Councils, governed by Decree No. 3270 of 1986. These councils comprise representatives of civic, trade-union and community organizations (see annex 57).

Article 26

210. Article 10 of the Constitution provides that: "It is the duty of all Colombian citizens and aliens in Colombia to live in accordance with the Constitution and the law, and to respect and obey the authorities". Further, article 57 of the Political and Municipal Code states: "Laws are binding on all persons residing in Colombia, including aliens, whether domiciled or transient, except with regard to those rights accorded by public treaty". Accordingly, duties are common to Colombian nationals and aliens, who are subject to the law and to the authorities set up to protect their persons, reputation and property (see art. 16 of the Constitution). All persons are thus equal before the law, which must be the same for everyone without any legal distinction, and must accord equal rights, impose the same obligations and afford the same protection to all, as confirmed by the Supreme Court of Justice in its ruling of 30 March 1978.

211. There are, however, a number of differences between the duties of nationals and those of aliens. Article 165 of the Constitution, for example, concerned the bearing of arms by nationals in defence of national independence. Nationals and aliens enjoy the same civil rights, although, in the case of aliens, a number of restrictions may be imposed by law, for reasons of public order. Only Colombian nationals may exercise political rights. Aliens entering Colombia enjoy the same constitutional and legal guarantees as nationals with regard to the protection of life and liberty. The Colombian population includes a variety of ethnic groups which also enjoy equality before the law and to which the Government extends the same guarantees without discrimination of any kind.

212. In promoting respect for human dignity and defending and protecting the human rights of all persons residing in Colombia, the Government has been acting on the undertakings deriving from its ratification of the various international covenants and conventions. Colombia deposited the instrument of ratification of the International Convention on the Elimination of All Forms of Racial Discrimination on 2 September 1981, and the Convention came into force for Colombia on 2 October of that year. Colombia has also ratified all international instruments condemning any form of discrimination. The Human Rights Committee is referred to the reports of the Government of Colombia on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/85/Add.2, CERD/C/112/Add.1, CERD/C/143/Add.1) and the fourth periodic report of 1988 on the implementation of that Convention, which is annexed hereto, for explanations of the relevant legislation and the measures taken to implement it (see annex 16).

Article 27

213. With regard to the rights of religious minorities, we refer to article 18 and to the report of the Government of Colombia to the Special Rapporteur on religious intolerance included in that report (see annex 44). With regard to ethnic minorities, the Government, aware of the wealth that ethnic differences represent for the national heritage, has in recent years pursued a policy based on such principles as the protection of the right of the indigenous population to their own territory in which to settle, their right to adopt their own organizational structures and elect their own authorities, and the right to study their own living conditions and decide on their development models.

214. Decree No. 1634 of 1960 created the Indigenous Affairs Division (DAI) of the Ministry of the Interior and Act Nos. 135 of 1961 and 4 of 1973 introduced various provisions concerning land reform. Under that legislation, the Colombian Institute for Agrarian Reform (INCORA) was empowered to set up reserves and protected areas for indigenous communities, who were given common title to the land in accordance with their practices and customs (see annexes 58, 59 and 60). In addition, Act No. 2 of 1958 set up forest reserves for the preservation of ecosystems such as that of the Amazon.

215. The policy towards indigenous communities has in recent years been linked with environment policy through the regulation, protection, recovery and sustained development of natural resources, particularly tropical forests. The land reform programmes are designed to speed up the handing over of traditional lands in the form of reserves, as provided for in Act No. 135 of 1961, Act No. 31 of 1967, approving the ILO Convention concluded in Geneva in 1957, and the Agrarian Reform Act. Indigenous communities are guaranteed the right the use of renewable natural resources in their territories and indigenous inspectors ensure that exploitation is conducted in a rational manner (resolution 997 of 19 September 1987).

216. During the last four years, as part of the ecosystem protection policy, 72 indigenous reserves have been set up covering an area of 13,336,641 hectares with a resident population of 27,377. As part of the restructuring of reserves, 2,579,889,621 pesos have been invested in purchasing 29,377 hectares and 297,199,000 pesos in land improvement.

217. In the area of education, Decrees Nos. 88 of 1976 and 1142 of 1978 recognize ethnic pluralism and establish the right of indigenous communities to a bilingual and bicultural education in keeping with the indigenous communities' way of life and their special socio-cultural and economic characteristics (see annex 61). Resolution 3454 of 1984 calls for education curricula to be based on the principles of ethnic development and ethnic education and proposes that indigenous communities should determine the content of their own curricula.

218. Decree No. 2230 of 1986 established the National Committee for Aboriginal Languages under the chairmanship of the Colombian Anthropological Institute (ICAN) to advise the Government in formulating policies concerning

research, dissemination, protection, education, training of experts in ethnolinguistics and preservation of American Indian languages existing in Colombia (see annex 62).

219. Ministry of Health resolution 10013 of 1981 establishes the right to free health care. Primary health care programmes are being conducted with the active participation of indigenous communities in solving their health problems. Other programmes being implemented involve traditional medical practices and recognize the socio-cultural characteristics of indigenous communities (see annex 63).

220. Under the Treaty for Amazonian Cooperation, indigenous rights are recognized and considerable importance is attached to the conservation of the natural resources of the Amazon Basin. As a signatory of the Treaty, Colombia promoted the holding of the first international seminar on indigenous frontier communities (Bogotá, October 1988), convened by the acting secretary of the Amazonian Cooperation Council. One of the aims of the seminar was to set up a special commission on Amazon Indian affairs, which was formalized at the third meeting of Foreign Ministers of the Treaty for Amazonian Cooperation in March 1989. The 81 indigenous groups in Colombia comprising approximately 450,000 individuals, received 9,041 million pesos in Government programme funding between 1986 and 1989, an increase of 200 per cent over the five preceding years.

221. Attached is the booklet on Government policy for the protection of indigenous rights and conservation of the Amazon Basin ecology, which will give the Committee a general idea of the aims and achievements of the Government in this regard (see annex 64).

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